2 June 2023

Te Kowhai East Limited Partnership
c/o Gareth Harbinson
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Email: s 9(2)(a)

Dear Gareth

**TE KOWHAI EAST GROWTH CELL – IMPLICATIONS OF THE NATIONAL POLICY STATEMENT FOR HIGHLY PRODUCTIVE LAND**

## 1. INTRODUCTION

1.1 Te Kowhai East Limited Partnership ("TKE") owns approximately 139ha of land at 270 Te Kowhai Road and 28 Mathers Road in Te Kowhai, Hamilton ("site"). The site is currently within the jurisdiction of Waikato District Council ('WDC"), but sits adjacent to the boundary between that Council and Hamilton City Council ("HCC").

1.2 TKE has previously been seeking that HCC accept the site (and two adjoining pieces of land between the site and Waikato Expressway, collectively the "sites") as an "emerging growth cell" for future residential purposes. While HCC does not consider the sites are required for residential use, they have suggested that the sites could be a potential industrial/business use option.

1.3 In this regard, HCC has noted that the Housing and Business Capacity Assessment ("HBA") undertaken in accordance with the requirements of the National Policy Statement on Urban Development 2020 ("NPSUD") has identified there is limited industrial land around the northern end of Hamilton. In particular nearly all of the Te Rapa industrial area (including the Te Rapa Gateway and Porters but excluding the Te Rapa North Industrial Park) has now been developed, as has Northgate at Horotiu.

1.4 A review of the HBA has recently been undertaken in 2022. While the results of this review are yet to be published, TKE understands they reaffirm the shortage of industrial land in the north of Hamilton.

1.5 HCC is accordingly interested in the possibility of progressing a pathway for the sites to transition from rural zoned land in Waikato District to industrial zoned land in Hamilton City. We note the sites adjoin the Northern Corridor of the Hamilton-Waikato Metropolitan Spatial Plan ("MSP", at page 41) prepared by Future Proof and which outlines opportunities and linkages for future development areas between Hamilton and neighbouring areas such as the Waikato District.

1.6 However, HCC has then questioned whether this proposal may be affected (and potentially precluded) by the provisions of the National Policy Statement for Highly Productive Land 2022 ("NPSHPL").

1.7 In particular, Policy 5 of the NPSHPL is as follows:

> "***Policy 5*** *– The urban rezoning of highly productive land is avoided, except as provided in this National Policy Statement.*"

1.8 Policies requiring activities to be "avoided" are to be treated as highly directive and given significant weight, in accordance with the Supreme Court's decision in *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 38. This is significant, given that district plans are required to give effect to any national policy statement, in accordance with section 75(3)(a) of the Resource Management Act 1991 ("RMA").

**Purpose and scope of this letter**

1.9 Against that brief background, the purpose of this letter is to address the potential impact of the NPSHPL on TKE's proposal for the sites to be rezoned for future industrial use.

1.10 To that end, we address the following:

(a) Do the sites contain "highly productive land" (Section 3)?;

(b) Does the proposal involve "urban rezoning" (Section 4)?;

(c) Assessment of the relevant tests from clause 3.6 of the NPSHPL (Section 5); and

(d) Concluding comments (Section 6).

1.11 We provide a summary of our advice in Section 2 below.

1.12 For completeness, we note that TKE's proposal would involve an element of local government reorganisation, to transfer the sites from WDC to HCC. We have not been asked to consider that aspect of the proposal for the purpose of this advice and do not do so. However, we are happy to provide advice on that matter also, should that be required.

## 2. SUMMARY

2.1 For the reasons outlined below, in our view:

(a) The sites contain "highly productive land" and TKE's proposal involves "urban rezoning", in accordance with the NPSHPL.

(b) As such, the rezoning cannot proceed (or must be "avoided", as per Policy 5 of the NPSHPL), unless it meets the relevant criteria from clause 3.6 of the NPSHPL.

(c) Those criteria will require:

(i) A range of comprehensive and robust assessments to be provided, including as to the required development capacity for industrial land in the northern end of Hamilton (in particular around the Te Rapa industrial area); and

(ii) Careful consideration as to the extent of the sites that can (and need to be) rezoned in order to meet this development capacity.

2.2 That said, on balance we do not consider there are any current "red flags" or immediate issues arising in respect of the NPSHPL requirements, which would necessarily preclude the proposal from proceeding.

## 3. DO THE SITES CONTAIN "HIGHLY PRODUCTIVE LAND"?

3.1 To come within the ambit of Policy 5 of the NPSHPL, the sites must come within the definition of "*highly productive land*". In accordance with clause 1.3 of the NPSHPL, that term is defined as follows:

> *"**Highly productive land** means land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land)."*

3.2 As the NPSHPL only came into force as at 17 October 2022, no local authorities (including WDC or HCC) have yet completed their mapping of highly productive land in accordance with the requirements of that document. As such, clause 3.5(7) of the NPSHPL currently applies in terms of determining whether the sites contain highly productive land.

3.3 In summary, that clause provides that highly productive land:

(a) Is:

(i) Land which is zoned general rural or rural production; and

(ii) Land Use Class ("LUC") 1, 2 or 3 land;

(b) But is not:

(i) Identified for future urban development; or

(ii) Subject to a Council initiated, or adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

3.4 The sites are:

(a) Zoned "Rural" under the operative Waikato District Plan ("OWDP") and "General Rural" under the appeals version of the proposed Waikato District Plan ("PWDP");

(b) Shown in the Manaaki Whenua/Landcare Research "Land Use Capability" maps ("LUC Maps") as being LUC Class 2 land; and

(c) Not subject to any Council initiated, or adopted, notified plan change or variation to rezone them from general rural or rural production to urban or rural lifestyle under either the OWDP or PWDP. There is only one current plan change to the OWDP and three variations to the PWDP, none of which affect the rural zoning of the sites.

3.5 Clause 1.3 of the NPSHPL defines "*identified for future urban development*" as follows:

> *"**Identified for future urban development** means:*
>
> *(a) Identified in a published Future Development Strategy as land suitable for commencing urban development over the next 10 years; or*
>
> *(b) Identified:*
>
> *(i) In a strategic planning document as an area suitable for commencing urban development over the next 10 years; and*
>
> *(ii) At a level of detail that makes the boundaries of the area identifiable in practice."*

3.6 Neither WDC nor HCC have yet notified draft Future Development Strategies as required by subpart 4 of Part 3 of the NPSUD.[1] As such, the existing strategic planning documents potentially relevant to this definition are:

(a) The Future Proof Strategy 2022 ("FPS"), being a 30 year growth management and implementation plan specific to the Hamilton, Waipā and Waikato sub-region within the context of the broader Hamilton-Auckland Corridor and Hamilton-Waikato Metropolitan areas;

(b) Waikato 2070, being WDC's Growth and Growth and Economic Development Strategy which was developed to provide guidance on appropriate growth and economic development that will support the wellbeing of the district, and was adopted by WDC in May 2020;

(c) The draft Hamilton Urban Growth Strategy 2022, which outlines HCC's objective to continue to work with its Future Proof partners to plan collaboratively for long-term growth outside the city boundaries; and

(d) The MSP (as approved by Future Proof), which sets out how and where HCC and neighbouring communities within Waipā and Waikato Districts should grow, develop and move around long-term to ensure social, economic and environmental prosperity.

3.7 An area in Te Kowhai is identified as a "Village Enablement Area" in the FPS (at page 8). However, the identified area is to the west of the sites and the FPS gives no timeframes for intended development in that area. The FPS also states (at page 63) that the future urban form of the FPS area will comprise "*low levels of growth in identified village enablement areas in accordance with district-level land use planning*".

3.8 A similar area in Te Kowhai is identified as being subject to residential development within 10-30 years in the "Te Kowhai Development Plan" at page 38 of Waikato 2070. Again, this area is to the west of the sites and in any event, the proposed timing for urbanisation of this area is outside the 10 year window covered by the definition of "*land identified for future urban development*" from the NPSHPL.

[1] Noting clause 1.3(3) of the NPSHPL provides that terms defined in the NPSUD and used in the NPSHPL have the meanings in the NPSUD, unless otherwise specified.

3.9 Neither HUGS nor the MSP identify Te Kowhai (or the sites) as being an area suitable for commencing urban development over the next 10 years.

3.10 On the basis of the above, we consider that the sites are:

(a) Not identified for future urban development for the purposes of the NPSHPL; and

(b) Accordingly, contain highly productive land, as per the relevant definition from the NPSHPL.

## 4. DOES THE PROPOSAL INVOLVE "URBAN REZONING"?

4.1 The next question is therefore whether TKE's proposal involves "*urban rezoning*". This is defined in clause 1.3 of the NPSHPL as follows:

> "***Urban rezoning*** *means changing from a general rural or rural production zone to an urban zone.*"

4.2 As noted, the sites are currently zoned general rural.

4.3 Clause 1.3 of the NPSHPL defines "*urban*" (as a description of a zone) to include light industrial, heavy industrial and general industrial. We understand that TKE's proposal would come within this definition.

4.4 As such, the proposal involves "*urban rezoning*".

## 5. ASSESSMENT OF THE RELEVANT TESTS FROM CLAUSE 3.6 OF THE NPSHL

5.1 Given the conclusions reached above, Policy 5 of the NPSHPL requires that the proposed rezoning "*be avoided*", except as provided in that NPS. In that regard, clause 3.6 of the NPSHPL provides a limited pathway for the rezoning of highly productive land and states as follows:

> *"(1) Tier 1 and 2 territorial authorities may allow urban rezoning of highly productive land only if:*
>
> *(a) The urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; and*
>
> *(b) There are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment; and*
>
> *(c) The environmental, social, cultural and economic benefits of rezoning outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.*
>
> *…*

> *(5) Territorial authorities must take measures to ensure that the spatial extent of any urban zone covering highly productive land is the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment."*

5.2 We address each of those relevant criteria as follows.

**Rezoning is required to provide sufficient development capacity**

5.3 The clear intent of this criteria is to provide a link between the HBA assessment undertaken in accordance with the NPSUD and proposals to rezone highly productive land. As outlined in the Ministry for the Environment's "*National Policy Statement for Highly Productive Land – Guide to Implementation*" ("Implementation Guide", published in March 2023) at page 44:

> "…'*sufficient development capacity' is defined in Part 3, subpart 1 of the NPSUD. The intention of this test is that rezoning HPL to an urban zone can only be considered if it is "required" to provide sufficient development capacity to meet demand for housing and business land (as assessed in a HBA for tier 1 and 2 local authorities). Where there is already sufficient development capacity to meet demand for housing and business land within the district, Clause 3.6(a) is not met and urban rezoning on HPL cannot occur.*
>
> *The intent is the test could support the rezoning of HPL to an urban zone if needed to provide for short term (within next 3 years) and/or medium term (3–10 years) sufficient development capacity as this is required to be zoned for housing and business land for it to be 'plan-enabled' (refer Clause 3.4 of the NPS-UD). Rezoning HPL to an urban zone to provide for long-term development capacity (10–30 years) would not meet this test."*

5.4 Market Economics have undertaken the required Business Development Capacity Assessment ("BCA") for the "Future Proof" Partners (being WDC, HCC and Waipā District), as of June 2021.[2] At a "Future Proof"-wide level of analysis, the BCA concluded[3] that plan enabled capacity across all three broad business/economic areas (being commercial, retail and industrial) is sufficient to meet anticipated growth of the short, medium and long term (being next 3 years, 3-10 years and 10-30 years respectively, as defined in the NPSUD). Given the scale of the area covered by the three local authorities, that is unsurprising.

5.5 However, the assessment at an individual local authority and business/economic area level is far more relevant and tells a different story. Focusing in particular on supply of industrial land for HCC, and accounting for the margins over and above predicted demand as required by the NPSUD,[4] the BCA concluded as follows:[5]

> "*Localised industrial land demand plus margin is the most likely demand type to significantly exceed capacity. This is especially true for much of Hamilton City, Huntly, Raglan, and Te Kauwhata in Waikato, and Cambridge-Karāpiro in Waipā.*"

---

[2] *Business Development Capacity Assessment 2021: Future Proof Partners: Hamilton City, Waikato District, Waipā District*, ME Consulting, 30 June 2021.
[3] See for example Figure 7.37, at page 96.
[4] Being 20% over and above projected demand in the short and medium term and 15% in the long term, as per clause 3.22 of the NPSUD.
[5] BCA, at page 89.

5.6 This is further demonstrated in Figure 7.21 from the BCA, which shows insufficient supply of industrial land for all areas of Hamilton (other than Ruakura) in the medium term, as follows:

**Figure 7.21: Hamilton Industrial Land Sufficiency plus Margin (ha)**

| | Demand Growth + Margin (ha) | | | Estimated Land Availability (ha) | | | Sufficiency Measure | | |
|---|---|---|---|---|---|---|---|---|---|
| **Name** | **Short Term (+20%)** | **Medium Term (+20%)** | **Long Term (+15%)** | **Short Term** | **Medium Term** | **Long Term** | **Short Term** | **Medium Term** | **Long Term** |
| Te Rapa | 51.4 | 177.0 | 328.7 | 99.3 | 99.3 | 278.0 | | Insufficient | Insufficient |
| Chartwell | 0.5 | 1.7 | 4.8 | - | - | - | Insufficient | Insufficient | Insufficient |
| Frankton | 0.8 | 25.8 | 92.3 | 21.1 | 21.1 | 21.1 | | Insufficient | Insufficient |
| CBD | 5.2 | 21.0 | 64.5 | - | - | - | Insufficient | Insufficient | Insufficient |
| Ruakura | 0.3 | 6.0 | 22.0 | 145.8 | 212.6 | 336.6 | | | |
| Other | 4.5 | 34.2 | 108.2 | 4.1 | 4.1 | 4.1 | Insufficient | Insufficient | Insufficient |
| **Total** | **62.7** | **265.8** | **620.6** | **270.3** | **337.0** | **639.7** | | | |

5.7 This is consistent with the view that HCC staff have also expressed to TKE when discussing the rezoning proposal. Further, the BCA was prepared before HCC notified its intensification plan change (Plan Change 12 to the operative Hamilton City District Plan), to implement the requirements of the NPSUD and Resource Management (Enabling Housing Supply and Other Matters) Amendment Act ("EHSA"). The housing intensification enabled by that plan change may potentially increase the short and medium term demand for industrial land close to the Hamilton urban centre, from that identified in the BCA.

5.8 In light of the above, we consider that the existing BCA provides a reasonable basis to argue that TKE's proposal meets the criteria from clause 3.6(1)(a) of the NPSHPL. This will be supplemented (and we anticipate, further reinforced) by the update to the BCA, which we understand is due to be released by HCC shortly.

**No other reasonably practicable and feasible options for providing capacity**

5.9 With respect to this criteria, the NPSHL provides the following relevant definitions:

(a) In accordance with clause 3.6(3) of the NPSHPL, development capacity is considered to be "*within the same locality and market*" if it is:

(i) In or close to a location where a demand for additional development capacity has been identified through a HBA (or some equivalent document) in accordance with the NPSUD; and

(ii) For a market for the types of dwelling or business land that is in demand (as determined by a HBA in accordance with the NPSUD).

(b) As relevant, a "*well-functioning urban environment*" is defined in Policy 1 of the NPSUD to mean urban environments that, as a minimum:

(i) Have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and

(ii) Have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport.

5.10 Having regard to the definition from clause 3.6(3) of the NPSHPL, in our view the relevant "locality and market" for the purposes of TKE's proposal must be around the northern end of Hamilton and more specifically, Te Rapa. As noted above, the BCA showed that there was no lack of plan enabled capacity across all three broad business/economic areas (being commercial,

retail and industrial) when assessed at a "Future Proof" scale. This is unsurprising, given that the three relevant territorial authorities cover approximately 27,000km$^2$ of area.

5.11 However, there is a lack of plan enabled capacity around northern Hamilton and in particular, Te Rapa. This shortfall is estimated to be approximately 77.7ha, in the short and medium term. It is unreasonable (and inappropriate) to expect this shortfall to be serviced for example by new industrial areas to the north of WDC (i.e., along its boundary with Auckland) or in Waipā. Rather, as the definition from clause 3.6(3) of the NPSHPL states, this demand should be serviced in or close to the location in which the need for it has been identified – in this case, Te Rapa. Thus, this is the extent of area within which "*reasonably practicable and feasible options*" for providing sufficient development capacity must be considered, for the purposes of clause 3.6(1)(b) of the NPSHPL.

5.12 Clause 3.6(2) of the NPSHPL also clarifies that a range of reasonably practical (and feasible) options that must be considered for providing the required development capacity include:

(a) Greater intensification in existing urban areas; and

(b) Rezoning of land that is not highly productive land as urban; and

(c) Rezoning different highly productive land that has a relatively lower productive capacity.

5.13 In respect of each of those requirements, we note as follows:

(a) Greater intensification in urban areas is unlikely to be a practical and feasible option for meeting the required demand for industrial land. As the Implementation Guide notes (at page 47):

> "*This is due to the nature of the activities the zone encourages (i.e. industrial activities may find it more challenging to intensify in the same way as residential or some business activities as the space they require usually serves an operational purpose).*"

(b) The LUC Maps show that there is relatively little non-highly productive land in the area surrounding the northern part of Hamilton City, to the west of the Waikato River. The vast majority of this land is LUC Class 1 or 2 (together with LUC Class 3 land along the Waikato River). The closest relevant pockets of LUC Class 4 land to the sites are further north, along Onion Road and to the south/west (around Rotokauri and Western Heights). Thus we anticipate it may be difficult to identify rezoning options for industrial land for the northern part of Hamilton City that are *not* on highly productive land and which:

(i) Will provide the required amount of development capacity;

(ii) Are within the same locality and market, in accordance with the explanation of those terms in clause 3.6(3) of the NPSHPL (noting the need to provide sufficient industrial land to support Te Rapa in particular, as outlined in the BCA and above);

(iii) Are reasonably practical and feasible (noting that for the short or medium term, "*feasible*" is defined in the NPSUD to mean "*commercially viable to a developer based on the current relationship between costs and revenue*"); and

(iv) Will achieve a well-functioning urban environment (noting that providing appropriate infrastructure connections and a contiguous urban form with good accessibility are key components of such urban environments).

(c) The requirement to consider options for rezoning land that has a relatively lower productive capacity recognises that there are urban environments (such as the north-western part of Hamilton) that are essentially surrounded by LUC Class 1, 2 or 3 land. In this circumstance, the NPSHPL requires that rezoning be directed to the lower class land as a priority, unless that is not a feasible option or would result in a poorly functioning urban environment. As noted, TKE's proposal already avoids LUC Class 1 land. The LUC Maps show that the closest LUC Class 3 land to the sites is further west (along Woolrich Road) and to the east, along the Waikato River. Based on the LUC Maps, these areas do not appear to provide the same accessibility, ease of development and scale as the sites. We therefore anticipate it is possible to argue that there are no "*relevant and reasonably feasible*" options for rezoning land with a relatively lower productive capacity within the same locality and market, that would also achieve a well-functioning urban environment.

5.14 Having regard to the above assessment, we consider it would likely be feasible to prepare a robust and comprehensive set of assessments, to support an argument that TKE's proposal meets the criteria from clause 3.6(1)(b) of the NPSHPL.

**Assessment of costs and benefits**

5.15 With respect to the criteria from clause 3.6(1)(c) of the NPSHPL, the Implementation Guide states:

> "*The intent of Clause 3.6(1)(c) is to build on best practice in terms of section 32 evaluations but also to emphasise that, in the case of urban rezoning of HPL, there is an even greater need to look beyond the short-term economic benefits of any urban rezoning proposal and to consider the full spectrum of environmental, economic, social and cultural benefits and costs. A robust section 32 assessment that covered both the section 32 tests and the requirements of Clause 3.6(1)(c) is recommended as best practice.*"

5.16 The Implementation Guide also states that the intangible values of highly productive land that should be considered as part of this assessment include:

(a) Its value to future generations;

(b) Its finite characteristics and limited supply;

(c) Its ability to support community resilience; and

(d) The limited ability of other land to produce certain products.

5.17 We understand that TKE has already obtained a range of expert assessments and reports regarding the rezoning proposal. We have not yet had an opportunity to review those assessments in detail. However, we anticipate they would provide the basis of a robust, cohesive and comprehensive assessment of the benefits and costs of the rezoning, sufficient to meet the requirements of this criteria.

5.18 It is also important to have a relevant expert (or experts) address the intangible values of highly productive land, for those benefits to be included in the overall section 32 evaluation. We note

that the Project Team discussed this with James Allen of AgFirst, with the intent of obtaining an assessment from him to support a robust cost-benefit evaluation which meets the criteria from clause 3.6(1)(a) of the NPSHPL.

**Ensuring spatial extent of rezoning is minimum necessary**

5.19 In summary, the intent of clause 3.6(5) of the NPSHPL is to ensure:

(a) Any urban rezoning of highly productive land is an efficient use of that land;

(b) The loss of highly productive land is only considered if required to provide enough development capacity, as identified in a HBA; and

(c) That the minimum amount of highly productive land is lost to provide that additional development capacity (for example, that significant development capacity – i.e. beyond that required for the next 10 years - is not being provided on highly productive land).

5.20 The requirement for the rezoning to be an "efficient" use of land is more relevant to rezoning for residential rather than industrial use. For example, any residential rezoning of highly productive land should generally be high density. That said, we understand that TKE's proposal provides industrial land in a highly efficient way. Careful design and location of infrastructure and roading connections has resulted in the net yield of the sites being as efficient as roading and stormwater requirements allow. The draft Framework Plan provided by TKE produces a net yield of 78%. TKE has advised that many industrial parks have net yields of 65%, which would result in 24ha less useable land if applied to the sites.

5.21 It is also arguable that loss of highly productive land as proposed by TKE is required to provide enough development capacity for industrial zoned land, as identified in the BCA. The only issue to note in this regard is whether the full extent of the sites is actually required to provide this development capacity. The BCA indicates that for HCC (and excluding Ruakura, which is assessed has having more than sufficient supply of industrial land), approximately 135ha of additional industrial land is required to meet development capacity in the medium term (including the 20% margin required by the NPSUD).

5.22 Given that TKE's site alone is 139ha, this would provide the majority (if not all of) that capacity, without the rezoning of any further industrial land in the next 10 years. However, TKE has advised that there has been significant uptake of industrial land in Hamilton City since the 2021 BCA, as shown in the memorandum dated 2 April 2023 from Urban Economics provided to us. This update should be reflected in the updated HBA due to be released shortly.

5.23 We also note that:

(a) The BCA has not been updated to take account of the additional housing intensification being proposed (in both Hamilton City and Waikato District) to comply with the requirements of the NPSUD and EHSA.

(b) The sites would also serve (and provide development capacity for) WDC, which should be accounted for. While the BCA concludes there is generally a sufficient supply of industrial land in WDC in the short and medium term,[6] it also notes much of this is located to the north, in proximity to the WDC boundary with Auckland.

[6] See Figure 7.24 of the BCA.

(c) The version of the Scheme Plan for TKE's proposal that we have been provided (V2, dated 26 January 2023) shows the net developable area of TKE's site as 109.1ha.

(d) The assessment above only considers development capacity required over the medium term, so would not involve providing significant development capacity (i.e. beyond 10 years) on highly productive land.

5.24 Overall, we anticipate that TKL's proposal could appropriately address clause 3.6(5) of the NPSHPL. However, this will require careful consideration (including based on a current/updated BCA assessment) as to the extent of the sites that need to be rezoned, in order to provide this development capacity.

## 6. CONCLUDING COMMENTS

6.1 TKE and HCC have correctly identified that TKE's proposal needs to address Policy 5 of the NPSHPL, in order for it to proceed. This will require a range of comprehensive and robust assessments to be provided, including as to the required development capacity for industrial land in Hamilton. It will also require careful consideration as to the extent of the sites that can (and need to be) rezoned in order to meet this development capacity.

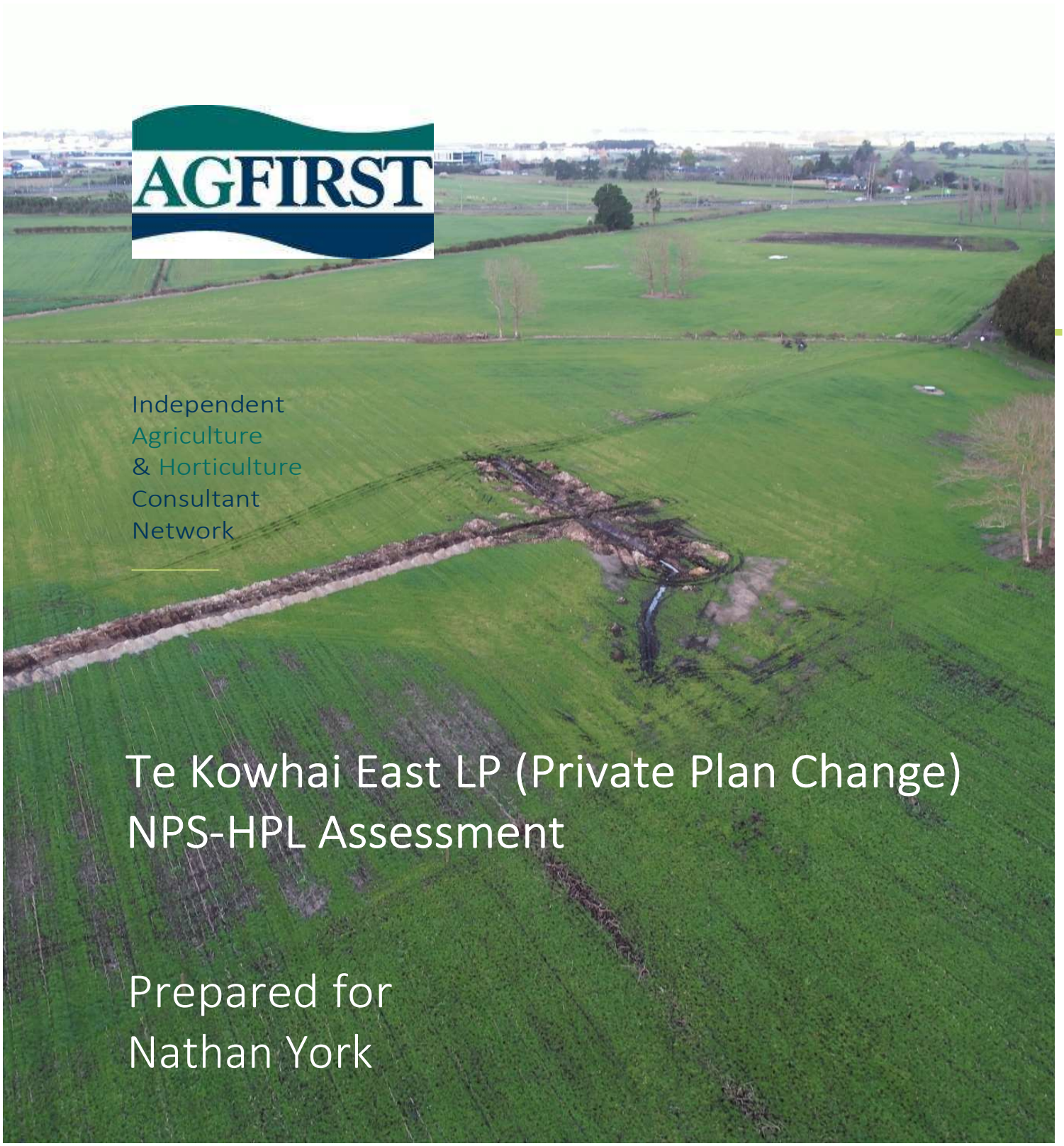
6.2 However, on balance, we do not consider there are any current "red flags" or immediate issues arising in respect of the NPSHL requirements, which would necessarily preclude the proposal from proceeding.

6.3 We trust the above is clear and sufficient for present purposes. We are of course happy (and available) to discuss any aspect of the above with the Project Team further, as required.

Yours sincerely

Helen Andrews
Director
The Environmental Lawyers

Cc: Mark Davey, HCC
Blair Bowcott, HCC



AGFIRST

Independent
Agriculture
& Horticulture
Consultant
Network

# Te Kowhai East LP (Private Plan Change) NPS-HPL Assessment

## Prepared for
## Nathan York

## DOCUMENT QUALITY ASSURANCE

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## 1.0 EXECUTIVE SUMMARY

Te Kowhai East LP (TKE) are working towards a Private Plan Change (PPC Site) to the Waikato District Plan (WDP) for an industrial re-zone near Te Rapa, north Hamilton. This involves eleven parcels of land located between Te Kowhai Road, Koura Drive, State Highway 1c and Mathers/Onion Road within the Waikato District. TKE is seeking to rezone approximately 192.0 hectares (ha) from Rural Zone to General Industrial Zone (GIZ).

AgFirst Waikato (2016) Ltd has been engaged to provide a productivity assessment of the PPC Site against the National Policy Statement – Highly Productive Land (NPS-HPL). This relates to an assessment on whether it is considered the PPC Site meets the circumstances in which urban rezoning may be undertaken as set out in Clause 3.6 of the NPS-HPL.

The PPC Site is currently utilised as a dairy farm, a drystock farm, an arable operation and a number of small lifestyle blocks. An economic analysis for the PPC Site has been undertaken using industry values and figures against the specific property liabilities, which show that the only economically viable operation is the dairy farm. When looking at the entirety of the PPC Site, the overall net profit is estimated to be a deficit, indicating the long-term viability for some of these operations is marginal.

There are significant constraints that have been identified within the PPC Site, including:

- Surrounding land uses to the north, south and east is zoned residential and industrial zone.
- Soil conditions
    - Very poorly drained, causing reduced yields and carrying capacity
    - Land unsuitable for alternative higher value land-based primary production
- Limited expansion or improvement options
    - Due to regulations restricting intensification into various land uses
    - Due to physical boundaries and amalgamation opportunities

AgFirst has undertaken a comparative agricultural productive assessment against alternative rural options in the locality. Alternative areas identified are the rural zoned land to the west of the Burbush future urban area and the land to the southwest of the Horotiu general industrial zone. While there is no argument that the land within the PPC Site is HPL, given the constraints identified above, AgFirst is of the opinion that the expansion of this area will have a lessor impact on the district with regards to having a lower productive capacity. Furthermore, conversion of the PPC Site into industrial zone would not cause any fragmentation or further disruption of additional highly productive land.

Therefore, AgFirst considers that the re-zoning of the PPC Site meets the requirements of Clause 3.6(1)(b) and 3.6(2)(c) of the NPS-HPL insofar as there are no other reasonably practicable and feasible options which are better suited in terms of impacts on productive land for providing additional industrial development capacity for Hamilton north.

## 2.0 BACKGROUND

Te Kowhai East LP (**TKE**) are working towards a Private Plan Change (**PPC Site**) to the Waikato District Plan (**WDP**) for an industrial re-zone near Te Rapa, north Hamilton. This involves eleven parcels of land located between Te Kowhai Road, Koura Drive, State Highway 1c and Mathers/Onion Road within the Waikato District. TKE is seeking to rezone approximately 192.0 hectares (**ha**) from Rural Zone to General Industrial Zone (GIZ). Presented in Figure 1 is the outline of the Site in relation to other land use zoning at the northeastern end of Hamilton.

The area and properties that are assessed are legally described in Table 1. Adjoining the PPC Site to the east is industrial zone and State highway 1C and to the south is a residential zone, which is within the Hamilton City boundary. Land to the west is zoned rural, being a mix of dairy, arable and lifestyle blocks and to the north is industrial zoning, are within the Waikato District boundary. The block is currently utilised as pastoral grazing, arable maize and lifestyle.

AgFirst has been engaged to provide a productivity assessment of PPC against the National Policy Statement – Highly Productive Land (**NPS-HPL**). This relates to an assessment on whether it is considered the PPC meets the circumstances in which urban rezoning of HPL may be undertaken as set out in Section 3.6 of the NPS-HPL. AgFirst is a suitably qualified agribusiness consultancy that has a wealth of experience in assessments relating to productive capacity, primary production and soil versatility. Our assessment should be read in conjunction with other assessments which accompany the plan change request, including the planning and economic analyses.

In order to meet the requirements of the NPS-HPL, AgFirst has assessed alternative options for expansion of other existing industrial areas in Northeast Hamilton to meet growth requirements. AgFirst has also assessed the costs of allowing the proposed urban rezoning from Rural to GIZ in terms of the loss of HPL for land-based primary production. These assessments are relevant to consideration of PPC under Clause 3.6(1)(b) and (c) and 3.6(2)(b) and (c) of the NPS-HPL. This includes the suitability for industrial expansion with regards to the loss of soils and HPL that has a relatively lower productive capacity than the Site.

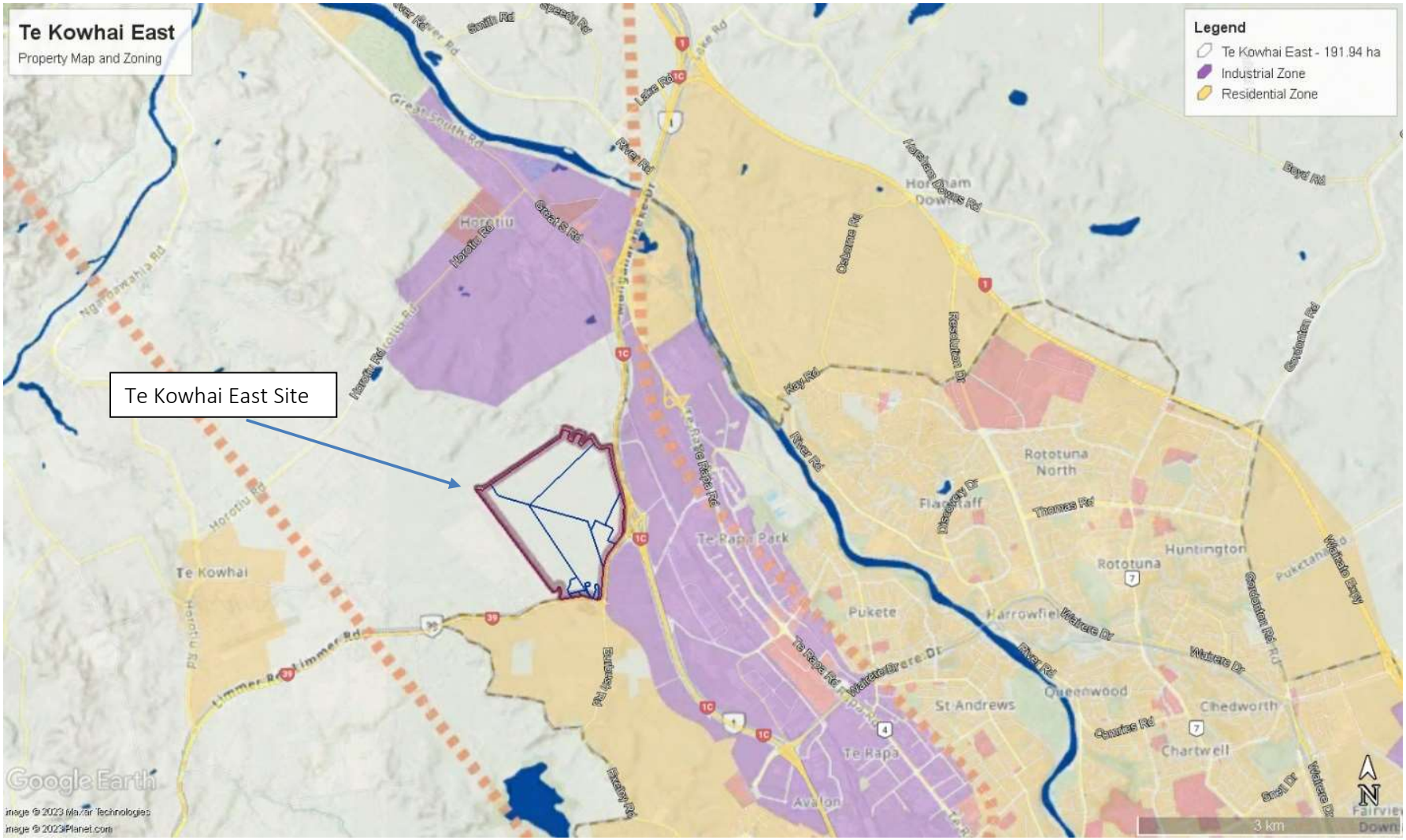

Figure 1: Proposed Plan Change Site

## 3.0 PROPERTY SUMMARY AND EXISTING LAND USE

The Site identified in Figure 1 consists of nine separate titles, ranging from small residential and lifestyle blocks that are less than 0.5 ha, to the largest title that is 91.22 ha. These are summarised in Table 1 with their associated land use and presented in Figure 2.

Table 1: Property details and current land use

| Lot ID | Title Number | Current Zoning | Land Use | LUC (NZLRI) | Area (ha) |
|---|---|---|---|---|---|
| 1 | SA68D/127 | Rural | Lifestyle | Unproductive | 0.69 |
| 2 | SA54B/393 | Rural | Lifestyle | Unproductive | 0.32 |
| 3 | SA68D/125 | Rural | Lifestyle | Unproductive | 0.65 |
| 4 | SA68D/124 | Rural | Lifestyle | Unproductive | 0.54 |
| 5 | 831323 | Rural | Lifestyle | Unproductive | 2.30 |
| 6 | 929707 | Rural | Drystock | 2w 2 | 36.25 |
| 7 | 831324 | Rural | Dairy | 2w 2 & 4e 2 | 46.04 |
| 8&9 | 831325 | Rural | Dairy | 2w 2 & 4e 2 | 91.22 |
| 10&11 | 1109516 | Rural | Arable - maize | 2w 2 | 14.00 |
| **TOTAL** | | | | | **192.01 ha** |

### 3.1 Current Land Use

The lifestyle blocks are unproductive, as are considered to have modified or anthropic soils. Anthropic soils, or human-made soils, are soils that have been significantly modified or created by human activities. It is important to note that some of the lifestyle blocks have considerable residential housing improvements established on these sites making it less likely to be used in the long-term for land-based primary production. Non-reversable fragmentation also restricts the use of these to be used at any reasonable scale.

The dairy farm has a combined parcel area of approximately 137.3 ha. This was historically two smaller dairy operations but is now combined and run from one dairy shed off Mathers Road.

There is a drystock block which occasionally grows maize that is 36.3 ha and an arable maize block that has a combined area of 14.0 ha, located to the east of the Site adjacent to the Waikato expressway.

Overall, there is approximately 192.0 ha of land included in the assessment, with approximately 187.5 ha that is currently being used for land-based primary production.

Figure 2: Site layout and properties boundaries

## 3.2 Production and Financial

The following financial review has been based on typical gross margins for dairy, drystock and arable farms to demonstrate the economic situation for the various production types on the Site. The full analysis is included in Appendix A.

### *3.2.1 Dairy*

The key parameters from the recent financial survey AgFirst released in August 2023 is presented in Table 2 below. Based on the previous four years data and the 2023/2024 budget, the average cash operating surplus is s 9(2)(b)(ii), which is s 9(2)(b)(ii) per ha. Note this does not include depreciation or interest repayments for debt servicing. The current outlook for dairy is expected to be lower than the previous 4 years, with a lower dairy payout and higher farm working expenses. A key aspect of this outlook, although not assessed, is the escalating interest rates, which have more than doubled in the past two years. The total effective area of the combined dairy farm is estimated as being 127 ha.

Table 2: Dairy farm financial information

| Year ended 30 June | 2019/20 | 2020/21 | 2021/22 | 2022/23 | 2023/24 Budget |
|---|---|---|---|---|---|
| Effective area (ha) | s 9(2)(b)(ii) | | | | |
| Cows wintered (head) | s 9(2)(b)(ii) | | | | |
| Stocking rate (cows/ha) | s 9(2)(b)(ii) | | | | |
| Total milksolids (kg) | s 9(2)(b)(ii) | | | | |
| Net cash income ($) | s 9(2)(b)(ii) | | | | |
| Farm working expenses ($) | s 9(2)(b)(ii) | | | | |
| Cash operating surplus | s 9(2)(b)(ii) | | | | |

### *3.2.2 Drystock*

The following financial analysis is for the drystock operation at the Site. To understand the economic viability of the property with regards to land-based primary production, the Beef and Lamb New Zealand (B+LNZ) data for Northern North Island Class 5 finishing farm, the forecast farm profit before tax is estimated as being s 9(2)(b)(ii) per ha[1]. The full analysis is included in Appendix A. Note that this economic figure is based on a North Island intensive finishing operation with a scale of 255 ha. Based on the entire Site being used as a grazing block, this will provide an estimated income from the land of s 9(2)(b)(ii) before tax and property liabilities. Due to the inefficient scale of this block, compared to a full-scale intensive operation, the likely income is likely to be much lower than presented.

- The Class 5 North Island Finishing Operation from B+LNZ data has been used for the income for this small-scale livestock operation.
- Total current farm profit before tax per ha using the B+LNZ data is estimated at s 9(2)(b)(ii)/ha.
- The estimated effective area is 35 ha.

### *3.2.3 Arable - Maize*

The arable areas of the site grows maize silage over spring and summer, with annual ryegrass grown over autumn and winter. Table 3 and 4 presents the gross margins for these operations.

- Based on the Pioneer information, north island annual ryegrass silage average yield of 4 t/ha and sold standing price of s 9(2)(b)(ii) per kgDM, the gross margin is estimated to be s 9(2)(b)(ii) per ha.

[1] https://beeflambnz.com/data-tools/sheep-beef-farm-survey

s 9(2)(b)(ii)

## 3.3 Site Economic Analysis and Viability

The total income from the PPC Site based on the various operations is s 9(2)(b)(ii) per ha which has been presented in Table 5 below. This is expressed as earnings before interest, taxes, depreciation, and amortisation (EBITDA) across the entire 192.01 ha site. To ensure that this is economically viable, the total gross margin would need to cover the rates and service at a minimum the interest only component of the property.

Included in Table 5 is the property/operations liabilities, which includes the Waikato District Council (WDC) and Waikato Regional Council (WRC) rates and interest for the land asset.

- Property information for rates and land valuation have been used as total annual liabilities for each of the properties.
- Total current revenue using industry values.
- Land has been valued based on the WDC rates for land value only – not including improvements.
- A long-term (30 year) average interest rate of 7% has been used[2].
- A nominal 40% debt loading has been assumed (60% equity), which is a typical level for farm lending.

Table 5: Total Site economic analysis

| Te Kowhai East Site | EBITDA/Gross Margins | | Property liabilities | Net profit | Net profit/ha |
|---|---|---|---|---|---|
| **Operation** | s 9(2)(b)(ii) | | | | |
| **Dairy Income** | | | | | |
| 127.0 ha Effective Dairy Farm | s 9(2)(b)(ii) | | | | |
| | | | | | |
| **Drystock Income** | | | | | |
| 35.0 ha Effective Drystock Farm | s 9(2)(b)(ii) | | | | |
| | | | | | |
| **Cropping income** | | | | | |
| 14.0 ha Annual Ryegrass | s 9(2)(b)(ii) | | s 9(2)(b)(ii) | | |
| 14.0 ha Maize Silage | s 9(2)(b)(ii) | | | | |
| | | | | | |
| **Lifestyle properties** | | | | | |
| 4.5 ha for total five properties | s 9(2)(b)(ii) | | | | |
| | | | | | |
| **Total PPC Site 192.01 ha** | s 9(2)(b)(ii) | | | | |

As presented in the Table above, on an individual basis, the only economically viable rural operation for the Site is the dairy farm. The cumulative income is s 9(2)(b)(ii) for all operations, with a total Site annualised liability of s 9(2)(b)(ii). This provides a net loss of s 9(2)(b)(ii) across the PPC Site.

[2] Exchange rates and Wholesale interest rates - Reserve Bank of New Zealand - Te Pūtea Matua (rbnz.govt.nz) 1993-2023 years with a 2.2% bank margin applied to the 90 bank bill monthly average yield

## 4.0 REGULATORY FRAMEWORK

### 4.1 Waikato District Plan

The property falls into the Waikato District and is subject to the WDP. As such, the WDP protects against the removal of high-class soils that can be used for primary production[3]. Under the WDC plan, High class soils are defined as "soils of land use capability classes I and II (excluding peat soils), and soils of land use capability class IIIe1 and IIIe5 classified as allophanic soils using the New Zealand soil classification".

### 4.2 Waikato Regional Policy Statement

The relevant objective and policy from the RPS are:

*"LF-O5 – High class soils*
*The value of high class soils for primary production is recognised and high class soils are protected from inappropriate subdivision, use or development."*

*"LF-P11 – High class soils*
*Avoid a decline in the availability of high class soils for primary production due to inappropriate subdivision, use or development."*

The objective and policy place an emphasis on protecting high class soils from 'inappropriate subdivision, use or development'. We note that the rezoning that is sought under PPC effectively acts as an expansion of an existing industrial area. The appropriateness of the proposal is addressed in the plan change request.

The RPS includes the following definitions[4]:

High class soils "*those soils in Land Use Capability Classes I and II (excluding peat soils) and soils in Land Use Capability Class IIIe1 and IIIe5, classified as Allophanic Soils, using the New Zealand Soil Classification."*

Primary production: *"means the commercial production of raw material and basic foods, and which relies on the productive capacity of soil or water resources of the region. This includes the cultivation of land, animal husbandry/farming, horticulture, aquaculture, fishing, forestry, or viticulture. It does not include hobby farms, rural residential blocks, or land used for mineral extraction."*

[3] WDP Policy - Protect the rural soil resource (4.3.1.4)
[4] https://eplan.waikatoregion.govt.nz/eplan/#Rules/0/916/1/0/0

## 4.3 National Policy Statement

In September 2022, the Ministry for the Environment (MfE) and the Ministry for Primary Industries (MPI) released the NPS-HPL. The single objective of the NPS-HPL is "*Highly productive land is protected for use in land-based primary production, both now and for future generations*."

Land-based primary production means "*production, from agricultural, pastoral, horticultural, or forestry activities, that is reliant on the soil resource of the land*".

Productive capacity, in relation to land, means "*the ability of the land to support land-based primary production over the long term, based on an assessment of:*

a. *physical characteristics (such as soil type, properties, and versatility); and*
b. *legal constraints (such as consent notices, local authority covenants, and easements); and*
c. *the size and shape of existing and proposed land parcels".*

Land which is zoned rural and which is Land Use Capability Class (LUC) 1, 2 and 3 must be treated as HPL under Clause 3.5(7) of the NPS-HPL prior to regional mapping of HPL being undertaken, unless the land was identified for future urban development or was subject to a Council initiated or adopted plan change at the commencement date of the NPS-HPL. Those exclusions do not apply for the PPC site.

LUC, 1, 2, or 3 land means *"land identified as Land Use Capability Class 1, 2, or 3, as mapped by the New Zealand Land Resource Inventory or by any more detailed mapping that uses the Land Use Capability classification".*

Policy 5 of the NPS-HPL has relevance and reads: "*The urban rezoning of highly productive land is avoided, except as provided in this National Policy Statement*". Clause 3.6 is the relevant clause as it provides Tier 1 and 2 territorial authorities may allow urban rezoning of highly productive land in accordance with the matters contained within it.

In summary the NPS-HPL aligns with the WDP and the Waikato Regional Policy Statement, where it identifies LUC Class 1, 2 and 3 (as mapped by the New Zealand Land Resource Inventory or by any more detailed mapping that uses the Land Use Capability classification) as being the most versatile land, with the fewest limitations on its use, and therefore highly productive land.

As noted above Clause 3.6 sets out the circumstances in which urban rezoning may be undertaken and is detailed below:

### 3.6 Restricting urban rezoning of highly productive land

1) *Tier 1 and 2 territorial authorities may allow urban rezoning of highly productive land only if:*
   a) *the urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; and*
   b) ***there are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment; and***
   c) ***the environmental, social, cultural and economic benefits of rezoning outweigh the long-term environmental, social, cultural and economic costs associated with the loss***

***of highly productive land for land-based primary production, taking into account both tangible and intangible values.***

2) *In order to meet the requirements of subclause (1)(b), the territorial authority must consider a range of reasonably practicable options for providing the required development capacity, including:*
   a) *greater intensification in existing urban areas; and*
   b) ***rezoning of land that is not highly productive land as urban; and***
   c) ***rezoning different highly productive land that has a relatively lower productive capacity.***
3) *In subclause (1)(b), development capacity is within the same locality and market if it:*
   a) *is in or close to a location where a demand for additional development capacity has been identified through a Housing and Business Assessment (or some equivalent document) in accordance with the National Policy Statement on Urban Development 2020; and*
   b) *is for a market for the types of dwelling or business land that is in demand (as determined by a Housing and Business Assessment in accordance with the National Policy Statement on Urban Development 2020).*

AgFirst will address (in part) Clause 3.6(1)(b), 3.6(2)(b) and 3.6(2)(c) in this report by assessing the productive capacity of the PPC Site and comparing this with additional localities surrounding around northern Hamilton and in particular, Te Rapa, that would be deemed to be 'other reasonably practicable and feasible options'. AgFirst will also address (in part) Clause 3.6(1)(c) in relation to the costs of allowing the proposed urban rezoning of the PPC Site from Rural to GIZ in terms of the loss of HPL for land-based primary production.

## 5.0 LAND AND SOIL ASSESSMENT

Determining the presence of high-quality soils and HPL, as defined under the LUC classification, requires consideration of a range of characteristics, in accordance with the methods described in the third edition of the LUC Survey Handbook to assess the suitability of the land for primary production. These include such characteristics as erosion, susceptibility to flooding, wetness, land aspect and topography. Therefore, this assessment has taken the following steps to identify soils present within the Site:

- Desktop assessment of LUC from the NZLRI portal
- Contours derived from the Waikato Regional Council (WRC) LIDAR database
- Landcare Research S-Map online, New Zealand Soils Classification (NZSC) and NZLRI national soil database

In addition to classifying the soils, AgFirst has assessed the productive use of the subject land, taking into account a range of characteristics of the proposed plan change area, which are relevant to the productive potential including:

- Soil characteristics
- Drainage
- Potential for sensitivity constraints from surrounding development and land use
- Economic limitations arising from small, fragmented portions of land and its productive potential

This Section presents the results and outcomes from the soil and LUC assessment based on information obtained on site and using the available New Zealand soils resources and database.

### 5.1 Land Use Capability Classification

The LUC classification system has been used in New Zealand to help achieve sustainable land development and management on farms. The purpose of the LUC classification is to assess the suitability of the land for primary production. Determining the presence of HPL as defined under the LUC classification requires consideration of a range of characteristics. The LUC classification categorises land areas or polygons into classes, subclasses, and units according to the land's capability to sustain productive use. The LUC is based on an assessment of the physical factors (rock type, soil, slope, present type and severity of erosion, and vegetation), climate, the effects of past land use, and the potential for erosion. This is summarised in Figure 3 below.

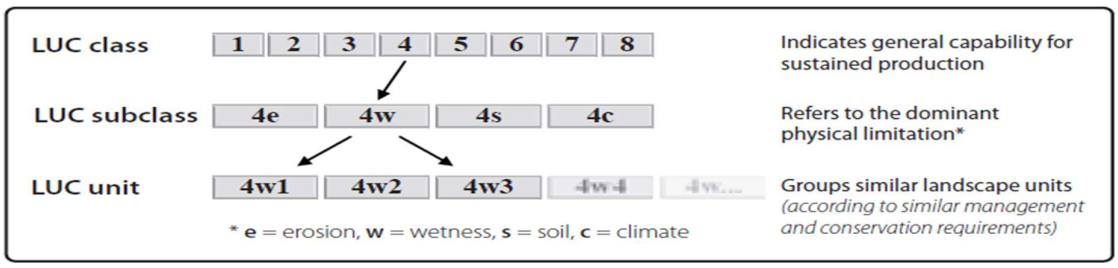


Figure 3: Components of the land use capability classification[5]

[5] Lynn, I.H, Manderson, A.K, Page, M.J, Harmsworth, G.R, Eyles, G.O, Douglas, G.B, Mackay, A.D, Newsome, P.J.F. (2009). Land Use Capability Survey Handbook – a New Zealand handbook for the classification of land 3rd ed. Hamilton, AgResearch; Lincoln, Landcare Research; Lower Hutt, New Zealand. GNS Science.

AgFirst has reviewed the NZLRI national database of physical land resource information for the Site. This database is based on a regional scale LUC rating of the ability of each polygon to sustain agricultural production. These have been produced at a 1:63,000 scale for the Waikato and are suitable for guidance, but are not specifically designed to be interpreted at a farm or paddock scale.

The soils mapped at the property are classified under the NZLRI as LUC 1s1, LUC 2s1, LUC 2w2 and LUC 4e3. 179.8 ha of the Site is classified as HPL (LUC 1, 2 or 3). The remainder of the Site (12.2 ha) is classed as LUC 4. The NZLRI LUC classifications for this area are presented in Table 6 and presented in Figure 4.

Table 6: Land Use Capability Classification for the Site

| LUC Class | Slope Class | Colour on Map | Area | NPS-HPL |
|---|---|---|---|---|
| LUC 1s1 | Flat to gently undulating (A) | Green | 0.4 ha | HPL |
| LUC 2w2 | Flat to gently undulating (A) | Yellow | 179.1 ha | HPL |
| LUC 2s1 | Flat to gently undulating (A) | Yellow | 0.3 ha | HPL |
| LUC 4e2 | Rolling (C) to Strongly rolling (D) | Light blue | 12.2 ha | Not HPL |
| **Total** | | | **192.0 ha** | |

Most of the Site is classified under the NZLRI database as LUC 2. This indicates that the soils are in the of high-class category and highly versatile, with these classifications being suitable for most productive agricultural systems. The NZLRI classifies these soils as an LUC 2w2 - a mellow mesic organic soil. Mesic soils are defined as occurring in very wet sites (or in sites that have been artificially drained) in which the peat materials are moderately decomposed[6]. This is supported by the S-Map soil classification and extensive artificial drainage observed during the site visit. The limitation to these soils is the wetness and underlying very poor drainage. It was noted that there was waterlogging to excessive wetness after drainage, consistent with the description for an LUC 2 or LUC 3 classification. The LUC handbook describes the wetness limitations for the various LUC subclasses as presented in Table 7[7]:

Table 7: LUC Handbook drainage characteristics

| LUC subclass | Description | Days of continuous inundation |
|---|---|---|
| **1w** | Not applicable | |
| **2w** | Inundation lasting 1–2 days, not more frequently than once in 2 years. Yield of sensitive crops is affected but survival is not. | 1 |
| **3w** | Inundation lasting 1–2 days on average once per year; or lasting 2-3 days once every 2 years. Some crops do not survive. Others have reduced yield. | 1-2 |
| **4w** | Inundation lasting 2–4 days on average once per year. Cropping of annual ground crops is marginal, tree crop yields are reduced. | 2-4 |

Therefore, with the very poor drainage and wetness limitations of much of the PPC Site, the distribution of soils suitable for versatile agricultural land use is reduced. As detailed, the maps produced within the NZLRI have been produced at a 1:63,000 scale are not specifically designed to be interpreted at a farm or paddock scale.

[6] Milne et al., 1995, Soil Description Handbook - Revised Edition, Landcare Research

[7] LUC Handbook, 34d edition - Table 14 – The relationship between LUC classes with a 'w' limitation

Figure 4: NZLRI Land Use Capability Classification Map for the Site

## 5.2 Manaaki Whenua – Landcare Research S-Map and OurEnvironment Database

To further understand the soils present across the property with regards to productive capacity, AgFirst has reviewed the Manaaki Whenua – Landcare Research S-Map and OurEnvironment database. While not sufficient to reclassify the soils as per the NPS-HPL, these maps, also designed for use at a 1:50,000 scale, has a finer resolution achieved by incorporating the best available spatial information from soil surveys or new mapping, and has a much wider range of soil properties[8].

The distribution of the soils as mapped by S-Maps is presented in Figure 5 and Figure 6. The S-Maps closely align with what was evident when visiting the Site, in particular the large area of very poorly drained organic soils across the majority of the PPC Site. While these soils are still likely to be considered HPL, the significant wetness limitations will impact the versatility and productive capacity of these areas.

These soils are formed in layers of completely to moderately decomposed peat with minor additions of silty volcanic ash, on clayey alluvium. The soil is poorly drained but artificial drainage means that many are now moderately well drained. Maintenance of the drainage system is important to prevent flooding. Suited to pastoral farming, but not suitable for horticultural crops susceptible low pH (acid) or wet soil conditions[9].

Essentially, more intensive and higher land uses (such as arable, horticulture and commercial vegetable operations) require free draining (or soils without rooting barriers) and relatively flat soils. The greater the wetness limitation, the more impact on yield and crop survival.

Given the wet early spring conditions, and recent rainfall events leading up to the site visit, some of the soils were at field capacity, as on the day of the visit some water logging was seen in areas of the PPC Site. This provided supporting evidence of the drainage capacity of the soils. The areas of waterlogging were located throughout the Site, while the rolling and strongly rolling land to the north was dry underfoot, confirming the S-Map database drainage classification.

In addition to the soil maps, the slope map provided by Manaaki Whenua Landcare Research – OurEnvironment portrays the slope within the PPC Site. This is presented in Figure 7, with the majority of the slopes being flat to gently undulating, with some undulating areas.

[8] S-map Online FAQ | S-Map Online | Manaaki Whenua - Landcare Research
[9] www.nzsoils.org.nz

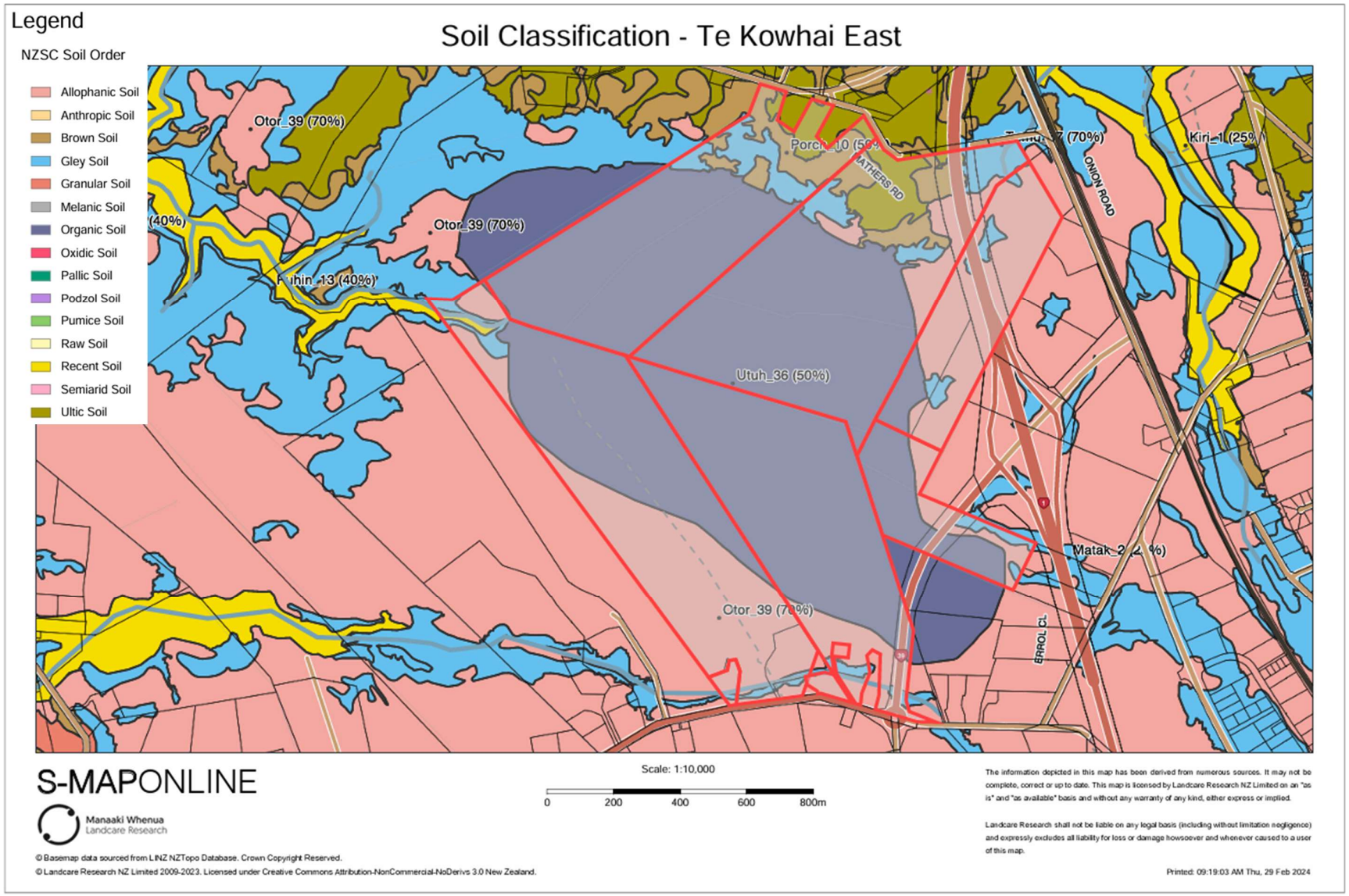


Figure 5: Soil classification representation of the PPC Site

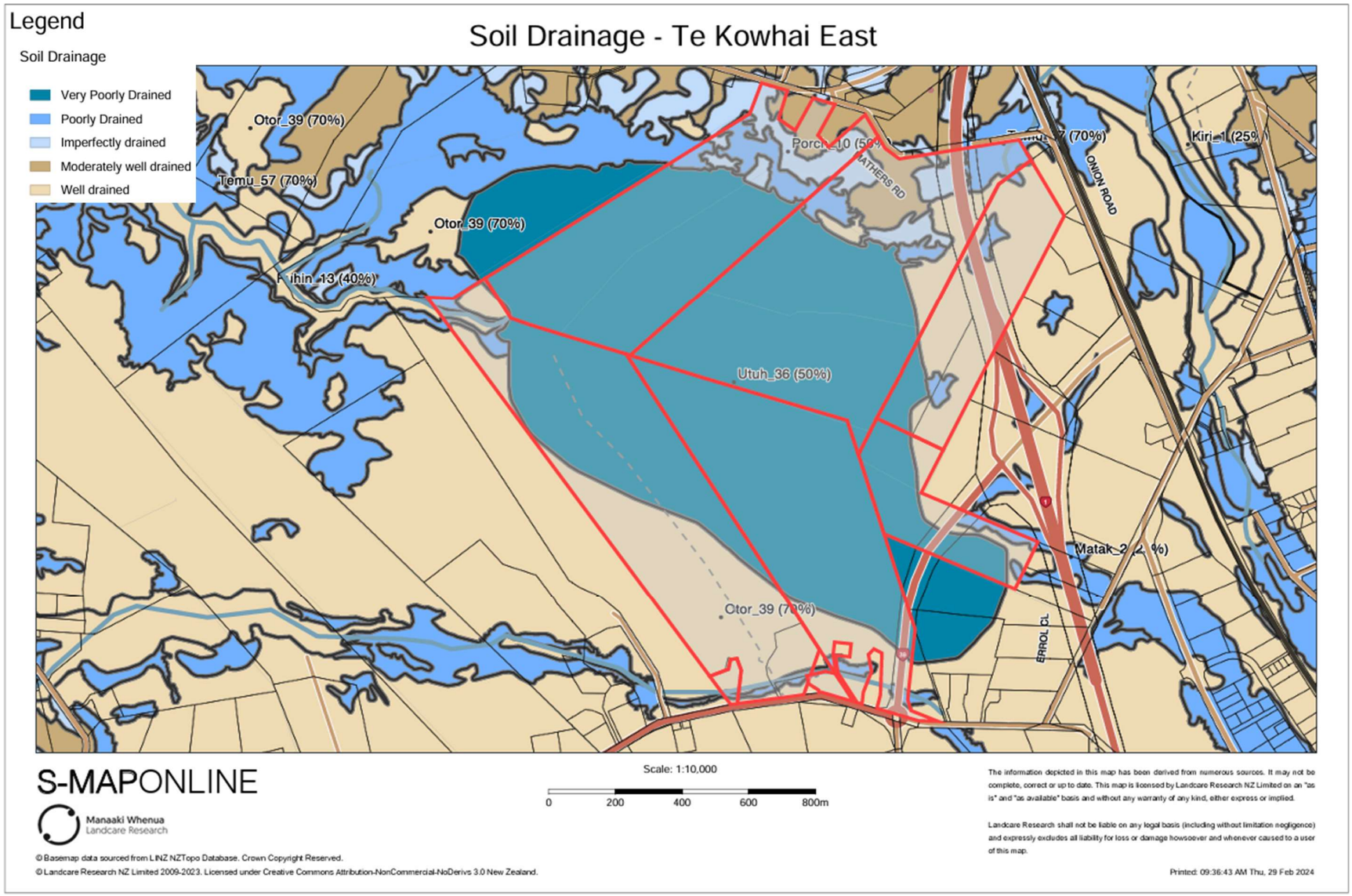


Figure 6: Soil drainage representation of the PPC Site

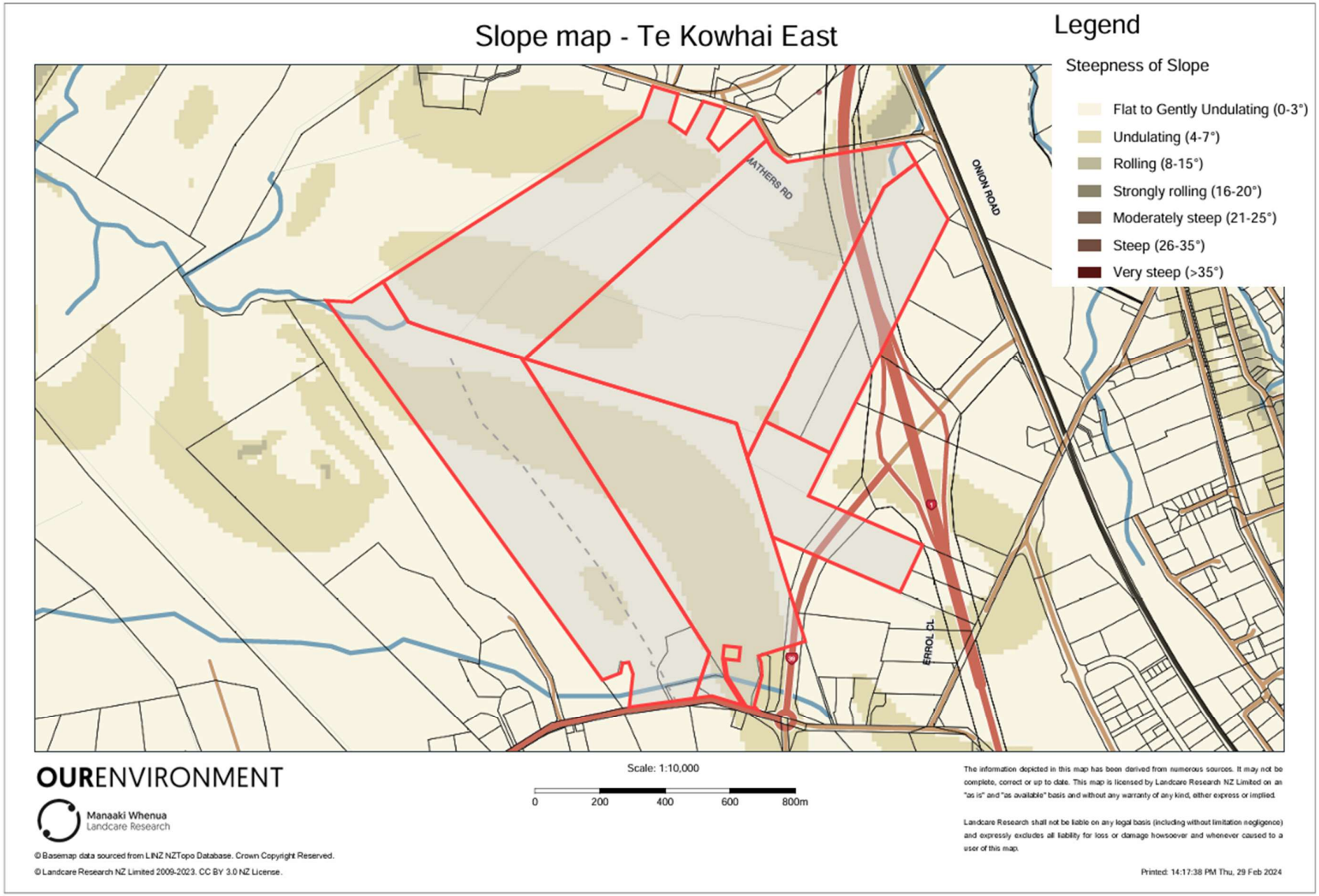


Figure 7: Slope map of the PPC Site

## 6.0 LAND USE POTENTIAL

As discussed in Section 3, the PPC Site is currently used for a mix of land-based primary production, being:

- Drystock (36.3 ha)
- Dairy farm (137.3 ha)
- Arable (14.0 ha)

While located within the rural zone, the lifestyle properties (approximately 4.5 ha) are not land-based primary production and would not be suitable for any productive use beyond a small number of beef cattle or sheep grazing.

The drystock farm is too small to be considered an economic unit, considering the average class 5 finishing farm within the Waikato is approximately 255 ha. There are limited amalgamation opportunities for this operation, being surrounded by a dairy farm and arable cropping. While it would be feasible to convert from these alternative operations into a drystock block, drystock is not the highest and best use of the other blocks. The economic analysis shows that this operation is unlikely to be profitable, with a deficit estimated as being s 9(2)(b)(ii) for the operation. While maize is occasionally grown within the block, due to the very poor draining soils, this would not be sustainable as a permanent arable cropping farm and would work best as rotational cropping or pasture renewal.

The dairy farm is the only economically viable operation within the PPC Site, with an estimated annual profit of s 9(2)(b)(ii) for the 137.3 ha property (approximately 127 ha effective). This farm would be considered a challenging farm during the winter and following any drainage event, with the underlying soils being very poorly drained. While dairy farming is the most profitable land-based primary production within the PPC Site, there are no opportunities to amalgamate this operation to adjoining farms due to land use change restrictions[10].

The arable operation consists of approximately 14 ha along the eastern boundary of the PPC Site. This area roughly coincides with a band of allophanic free draining soils, which is more suited and sustainable for continued arable use. The drystock land could be amalgamated with this area, it is unlikely this would be sustainable on a long-term basis, due to the soil limitations. Based on typical yields and expenses from the Pioneer gross margin analysis, the combined income is s 9(2)(b)(ii) from the 14 ha block. However, once fixed costs including rates and a nominal interest only debt servicing are accounted for, the net profit is a deficit of s 9(2)(b)(ii). This is largely attributed to the very high land value, that has been influenced by consumptive and speculative drivers.

On the whole, AgFirst considers that the current land uses are likely to be the highest and best with regards to land-based primary production on the short to medium term. Taking a longer-term outlook (30+ years), it is unlikely that the beef property will be used as a commercial farming operation, due to escalating farm working expenses and fixed costs. Continued losses or a near breakeven at a farm level EFS (Economic Farm Surplus) will not be economically sustainable, with the land likely being purchased and used as a hobby farm. This block has a land only valuation of s 9(2)(b)(ii) per ha, which is more expensive than the adjacent dairy farm. As a comparison, a typical drystock farm with easy contour would be valued at s 9(2)(b)(ii) per ha.

[10] Proposed Waikato Region Plan Change 1 (PPC1) – non-complying activity to convert land into dairy

The key limitations for land-based primary production and versatility on the Site are:

- Very poor draining soils across the majority of the PPC Site
- Sloping land to the north
- Inability to achieve scale for the drystock operation
- Limited optimal land available that is suitable for arable
- Neighbouring land to the east zoned industrial within Hamilton City Council
- Neighbouring land to the south zoned future urban within Hamilton City Council
- Non-reversable land fragmentation to the south

The soil types across the majority of the PPC Site do not lend themselves to any horticultural or commercial vegetable production land uses. As discussed, the wetness limitations will impact crop yield and crop survival, with pugging vulnerability for heavier stock classes. Therefore, this area will be limited in land use versatility, with production types only suited to the existing pastural grazing systems in addition to the small areas for arable.

There are higher returns for some of the alternative pastoral grazing operations, including dairy heifer grazing, a dairy support runoff, or amalgamating with the existing the dairy operation. However, all off these options are considered intensification, based on the Proposed Waikato Region Plan Change (PPC1) and subpart 2 of the National Environmental Standards for Freshwater (NES-FW) released in 2020. The NES-FW legislation is nationwide and requires a land use change discretionary activity consent when converting land into dairy or dairy support, pending the baseline land use at the time of the reference period. For consent to be granted, the enterprise must demonstrate that the proposed land use does not have any more impact on the catchment than during the baseline year. For this Site, that baseline is a relatively a lowly stocked beef operation, therefore of relatively low environmental impact (nutrient losses) to the receiving environment and catchment, and success of this type of consent is considered to be low. Therefore, it is unlikely that there will be alternative land uses for the PPC Site.

While the majority of the Site is considered HPL, which identifies it as being versatile for a range of productive uses, AgFirst does not consider that horticulture is a reasonably practicable option for the Site. The very poorly drained soils will likely have an impact with some crops not surviving, while others will have reduced yields.

With rapidly rising input costs, the returns for marginal farming operations will be reduced, and consideration will need to be given regarding the optimum land use for the PPC Site.

## 7.0 ASSESSMENT FOR DEVELOPMENT CAPACITY IN THE LOCALITY

This section provides an analysis of potential expansion of alternative areas within Northwest Hamilton (Te Rapa) locality. This in response to clause 3.6(1)(b) of the NPS-HPL which requires consideration of other practicable and feasible options for providing the required development capacity.

With regards to LUC classes within the district, there is an estimated 152,344 ha of HPL within the Waikato district[11], which is 34% of the total area. The LUC breakdown for the district is presented in Figure 8. This represents a significant proportion of the district, which inherently surrounds much of Hamilton. This makes any development, land use change or rezoning a challenge, where consideration of the NPS-HPL will be required. Therefore, it is important to balance out the demand and need for urban rezoning and selection of appropriate areas that will have less impact and preferably consists of areas with lower productive capacity or constraints for future land-based primary production.

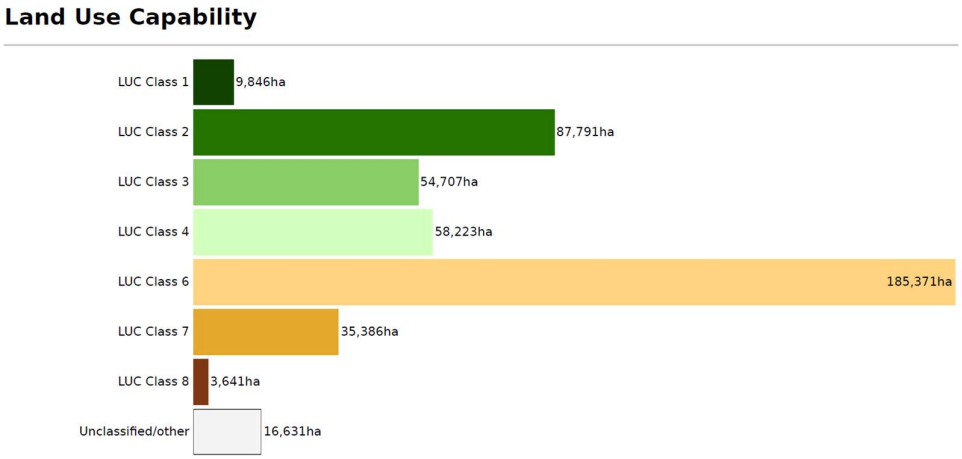


Figure 8: Summary of Land Use Classification within the Waikato District

The Te Kowhai East Growth Cell – Implications of the National Policy Statement for Highly Productive Land Report, prepared by The Environmental Lawyers identifies reasonably practicable and feasible options within the same locality for industrial development. Specifically, paragraph 5.13 (c).

> "The requirement to consider options for rezoning land that has a relatively lower productive capacity recognises that there are urban environments (such as the north-western part of Hamilton) that are essentially surrounded by LUC Class 1, 2 or 3 land. In this circumstance, the NPS-HPL requires that rezoning be directed to the lower class land as a priority, unless that is not a feasible option or would result in a poorly functioning urban environment. As noted, TKE's proposal already avoids LUC Class 1 land. The LUC Maps show that the closest LUC Class 3 land to the sites is further west (along Woolrich Road) and to the east, along the Waikato River. Based on the LUC Maps, these areas do not appear to provide the same accessibility, ease of development and scale as the sites. We therefore anticipate it is possible to argue that there are no "relevant and reasonably feasible" options for rezoning land with a relatively lower productive capacity within the same locality and market, that would also achieve a well-functioning urban environment."

[11] Manaaki Whenua – Landcare Research. Our Environment, Territorial Authorities, Waikato District LUC Map.

To independently assess against 3.6 pf the NPS-HPL, AgFirst has looked at the versatility of the land immediately surrounding the PPC Site that would meet the well-functioning urban environment. Land further to the west is a mixture of well drained (Typic Orthic Allophanic) and poorly drained (Typic Orthic Gley) soils. While the Gley soils are not particularly versatile, they have better drainage characteristics than that of the peat soils that dominate the PPC Site. This is identified within the WDC, whereby peat soils are not classified as high-class soils. The rural zoned land to the north has been identified as being too far away, or not in the same locality and market, to meet the north Hamilton demand.

The focus areas for comparison are presented in Figure 9, which are reasonably practicable and feasible options for providing development capacity within the same locality and market are:

- Land to the west of Burbush
- Land to the Southwest of Horotiu

This comparative assessment has taken into account a range of characteristics, which are relevant to the relative productive potential including:

- Size of growth cell and expansion opportunity
- Current and surrounding land use
- NZLRI LUC classification, soil characteristics and drainage
- Slope characteristics
- Environmental constraints and risk
- Economic limitations arising from small, fragmented portions of land and its productive potential

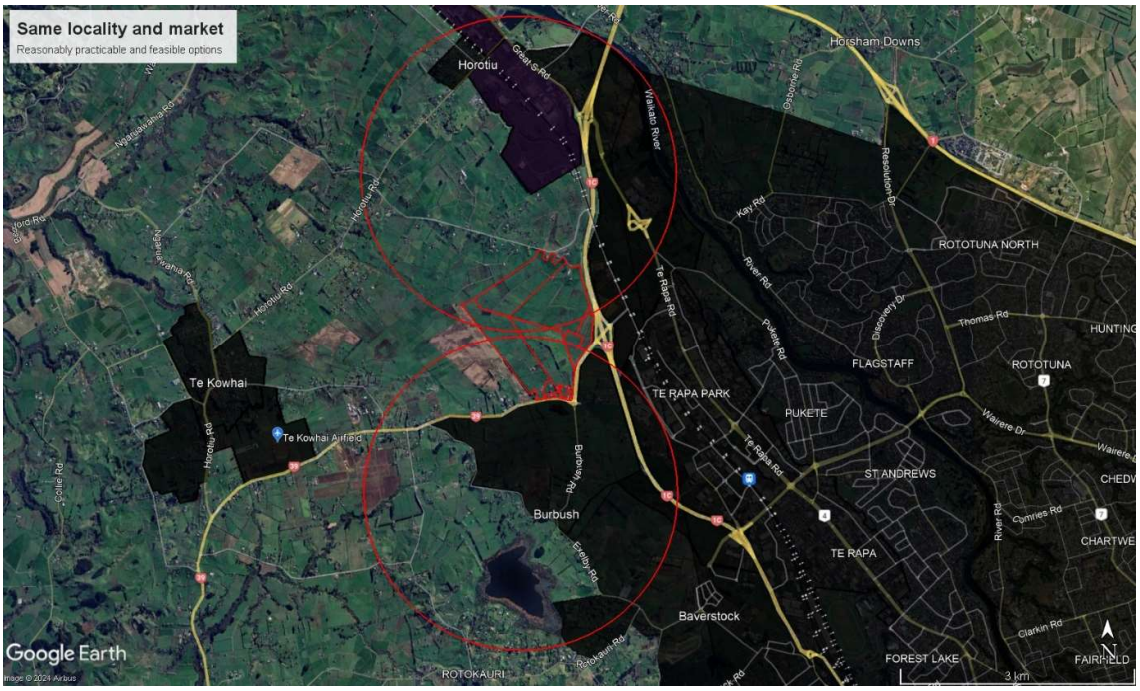

Figure 9: Same locality and market

## 7.1 Land to the west of Burbush

The land surrounding Burbush and Baverstock areas have been zoned future urban under the Hamilton City Council. Therefore, to meet the future demand, the area immediately to the west of this locality has been assessed to compare against the productive capacity with the PPC Site.

Within the proximity of the Burbush urban area, there is a large contiguous area that is approximately 250 ha of LUC 1s1. This is likely a Horotiu silt loam, which is a Typic Orthic Allophanic Soil. These soils are formed in layers of alluvium. Sand or gravelly sand can occur below 60 cm from the surface. The soil is well drained with moderate permeability and suited to pastoral farming, horticulture, cropping and forestry[12]. Other soils that are surrounding the Burbush locality are LUC 4 immediately to the west, and a peat lake with associated very poorly drained peat soils, with an LUC 2 classification. The LUC map for this locality is presented in Figure 10.

When reviewing the S-map soil classification and drainage for this area (Figures 11 and 12), while the majority of the surrounding rural zoned land is a mix of poorly drained Gley soils and very poorly drained Organic peat soils there is still a considerable amount of well drained (Allophanic) and moderately well drained (Granular) soils, which have a much higher productive capacity. The Manaaki Whenua Landcare Research OurEnvironment slope map show that the majority of the surrounding area is flat to gently undulating (Figure 13)

An expansion of this area would likely impact and cause fragmentation of the LUC 1s1 soils, AgFirst considers that the PPC Site would meet the subclause 3.6(2)(c), whereby the PPC Site has a relatively lower productive capacity. There is also a large commercial vegetable production operation between Limmer Road and Duck Road. This would be considered as being one off the highest and best land uses for this region, whereby the highly versatile Horotiu silt loam soils are demonstrating their versatility for land-based primary production.

[12] SoilsOfNZ By NZ Classification.pdf (nzsoils.org.nz)

| | |
|---|---|
| Expansion opportunity | Unlimited Limmer Rd |
| Constraints | Limited expansion further south towards peat lake |
| Current land use | Future urban |
| Surrounding land use | Rural Zone – Dairy farming, commercial vegetable production, pastural grazing, dairy support, arable cropping and rural lifestyle. |
| NZLRI LUC classification | LUC 1, LUC 2 and LUC 4 |
| Soil characteristics | Majority of surrounding area has a mixture of drainage classes, with very poorly drained adjacent to Lake Rotokauri, poorly drained gley soils in the low lying basin to the north and moderately well to well drained soils adjacent to the future urban zone and along Te Kowhai and Limmer Road. |
| Environmental constraints | The Peat lake of Rotokauri. |
| Economic limitations | None |
| Land use potential | Potential for pastural grazing, arable, horticultural, berry or commercial vegetable operations with established high value crops already in this area |
| Comparison to PPC Site | The soils and land in this area are overall of a higher quality, with areas suited to highly versatile systems, i.e. the commercial vegetable production farms along Limmer Road. Therefore, AgFirst considers this area has a higher productive capacity when compared to the PPC Site, which is dominated by very poorly drained soils. Expansion into this area would have a greater impact on fragmentation of large geographically cohesive areas. |

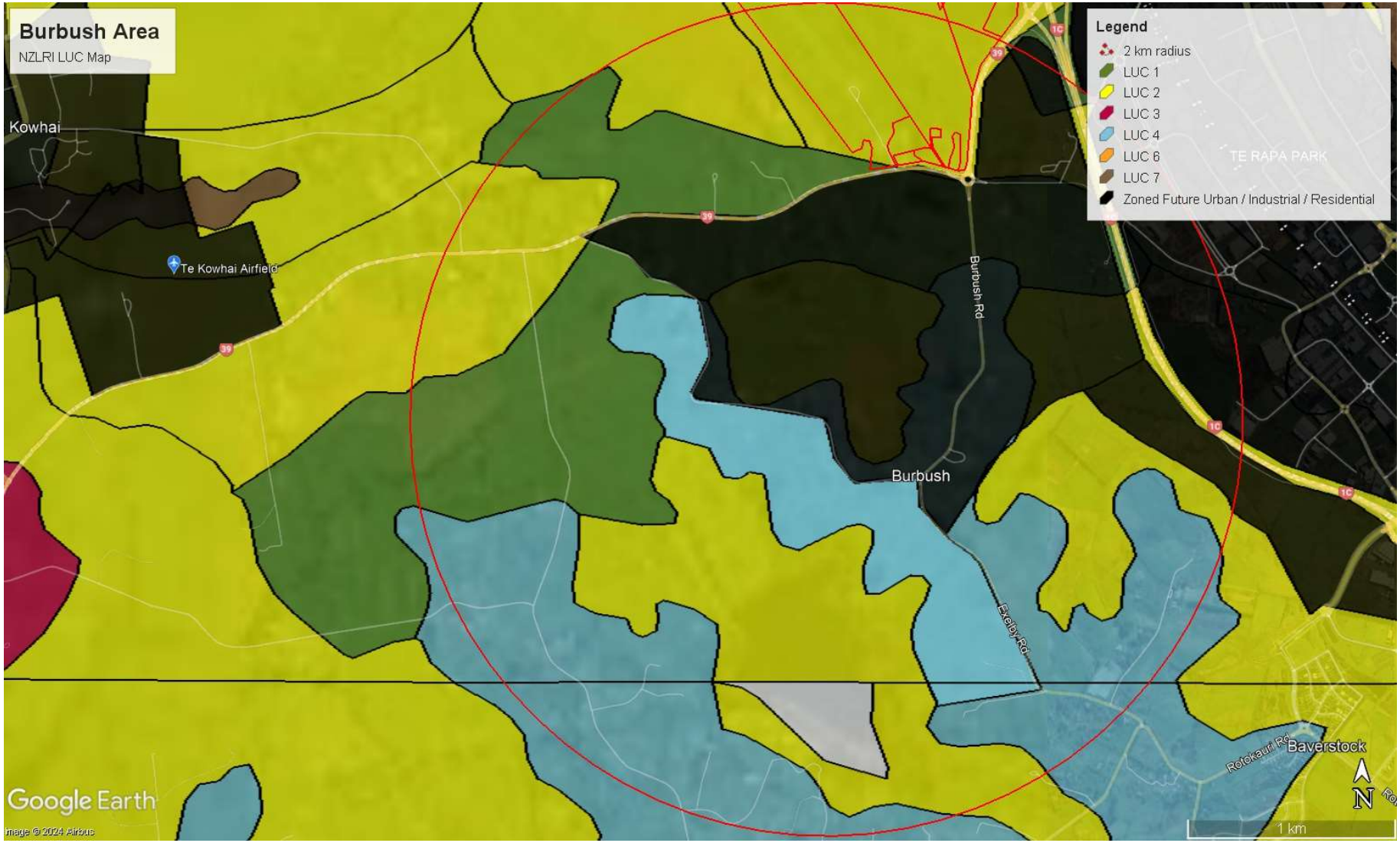

Figure 10: NZLRI LUC classification of land surrounding the Burbush future urban area

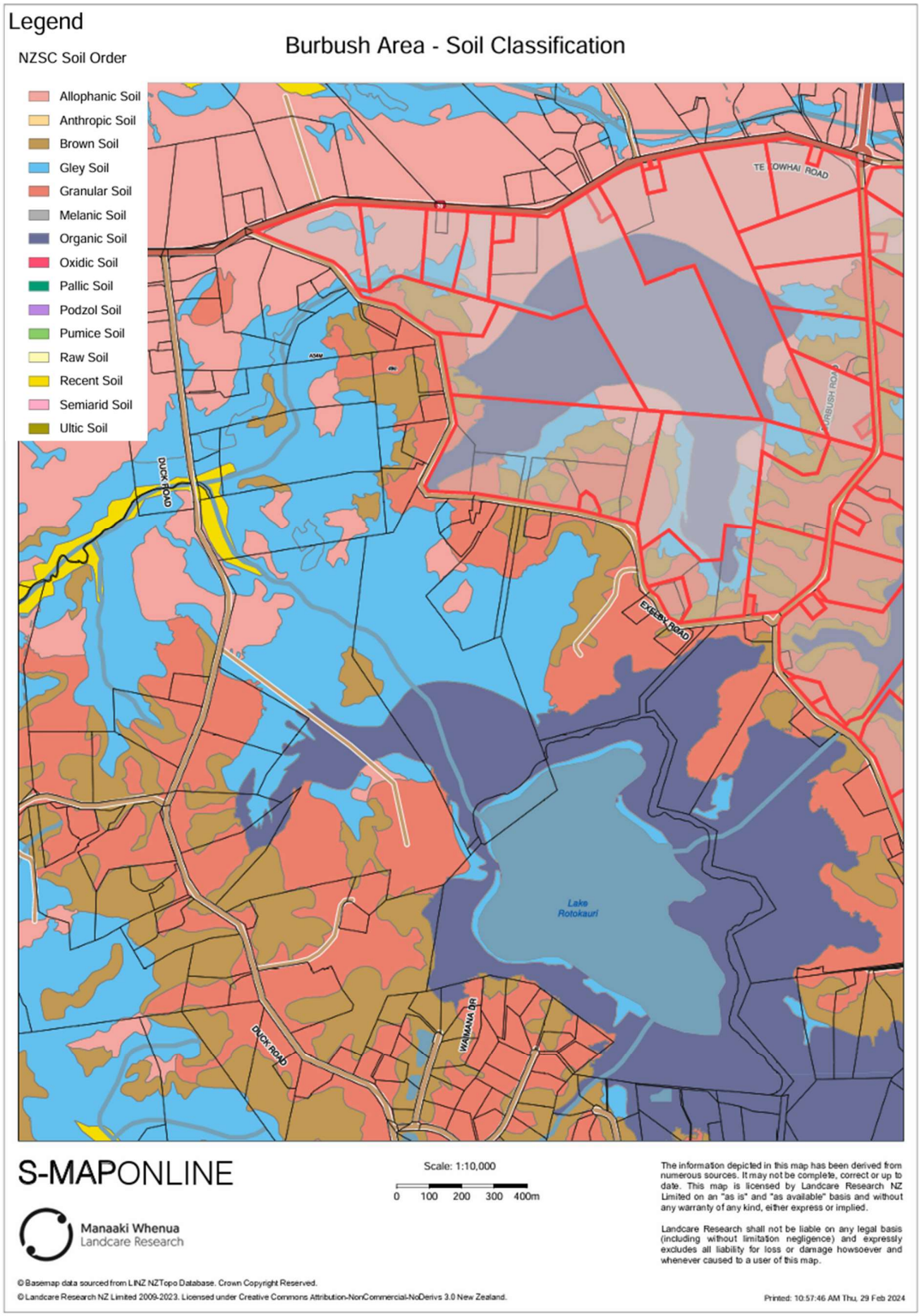


Figure 11: S-Map soil classification of land surrounding the Burbush future urban area

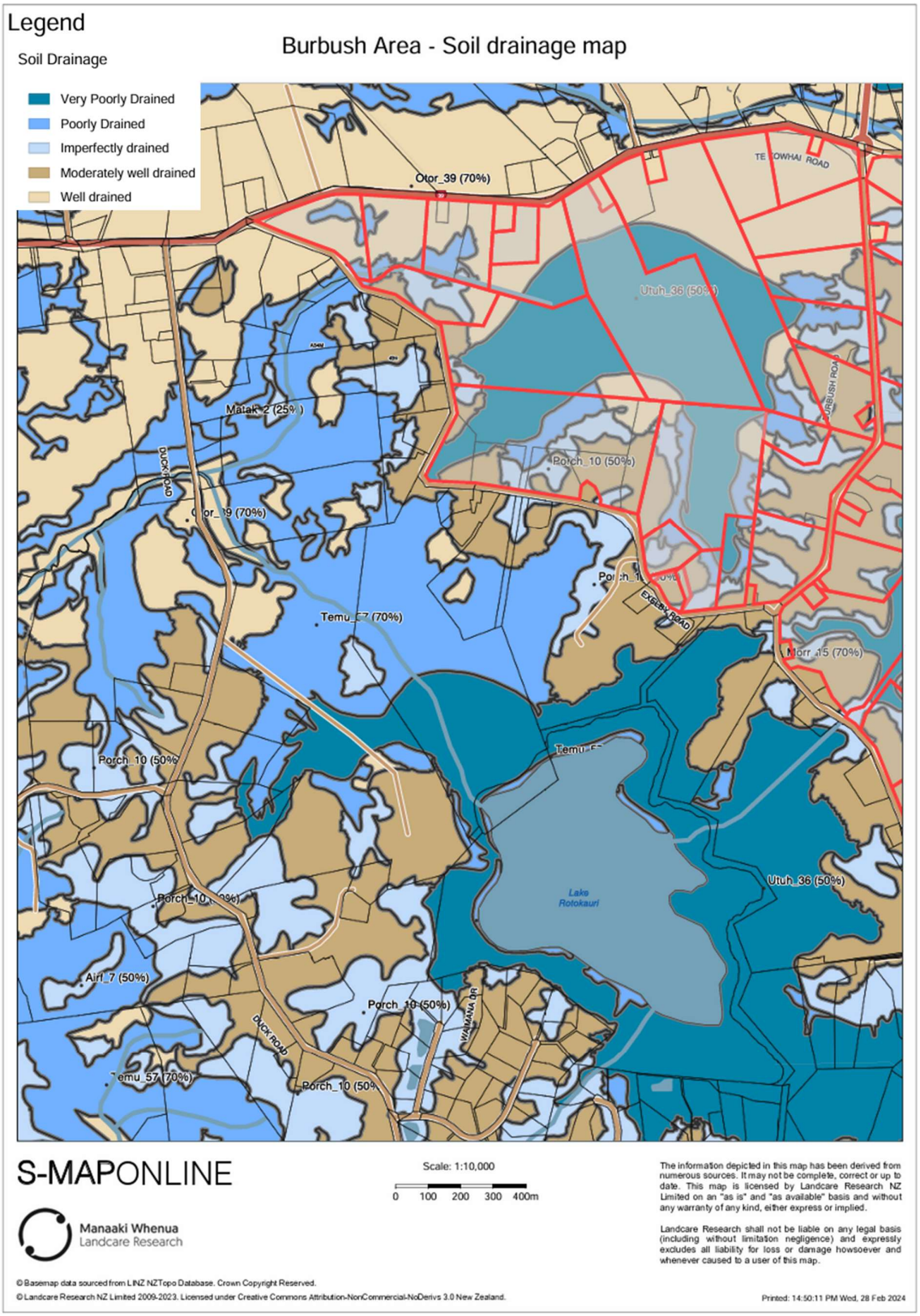


Figure 12: S-Map drainage representation of land surrounding the Burbush future urban area

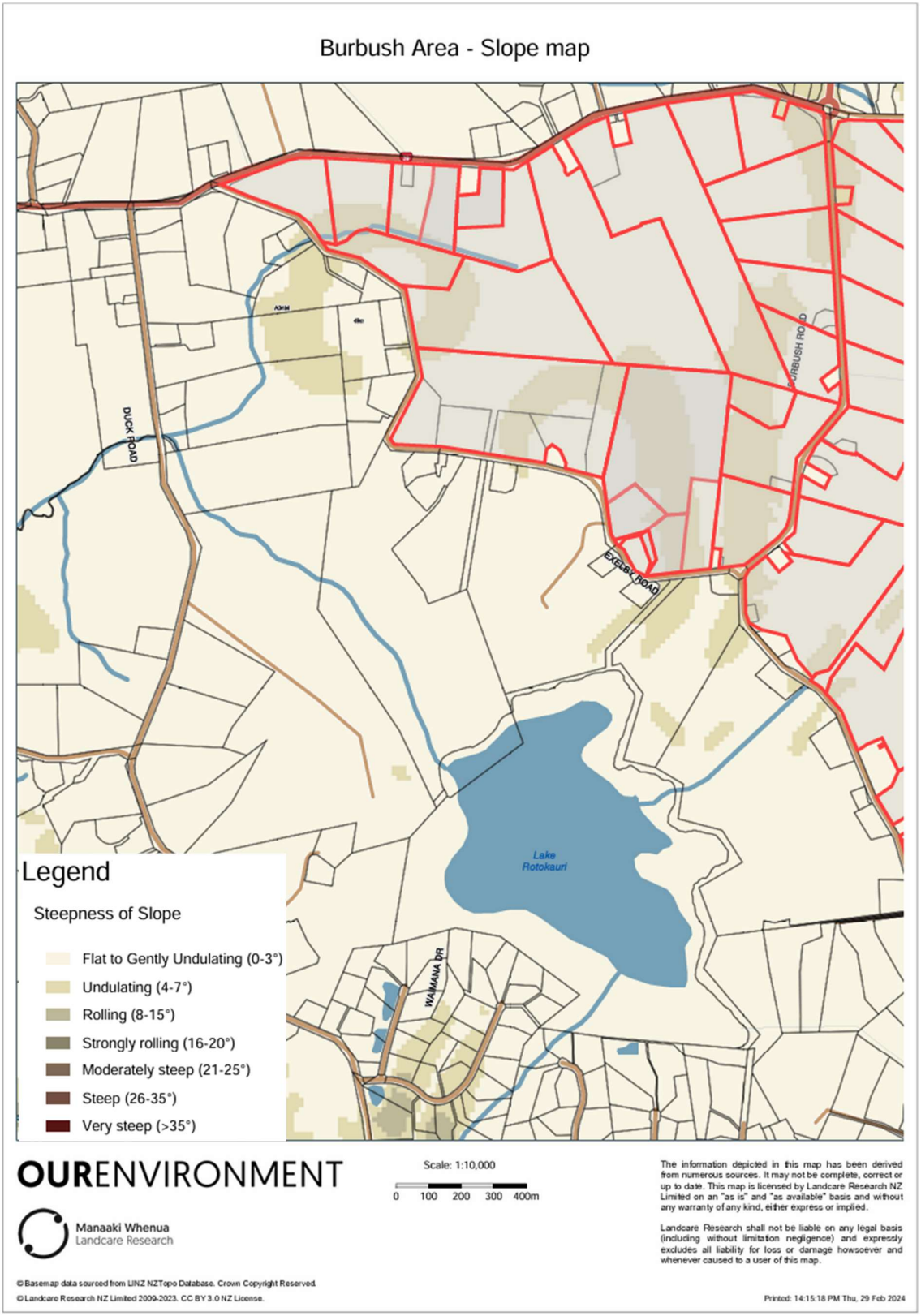


Figure 13: Slope map of land surrounding the Burbush future urban area

## 7.2 Land to the southwest of Horotiu

Land around Horotiu has been zoned General Industrial Zone under the WDC. Therefore, to meet the future demand, the area immediately to the southwest of this locality has been assessed to compare against the productive capacity with the PPC Site.

The majority of the land to the southwest of the Horotiu industrial zone is used for dairying. There is a 72 ha dairy farm located immediately to the south, which has an underpass through Onion Rd. To the west there is a large 176 ha intensive dairy farm with a herd home that also has an underpass through Onion Road that connects to an additional two titles. Further to the west there is another dairy farm across multiple titles extending to the Onion Road and Horotiu Road intersection. There is a ribbon of lifestyle properties along Ridge Park Drive, which is the only form of fragmentation and non-productive land uses in this vicinity.

The majority of the land immediately adjacent to the Horotiu industrial zone is LUC 2s1, which are free draining Typic Orthic Allophanic and Recent soils. The other key LUC class for the area is LUC 4e2. The LUC map is presented in Figure 14.

When reviewing the S-map soil classification, the dominant soils within the area are depicted as Typic Yellow Ultic and Typic Orthic Gley soils (Figure 15). These soils have contrasting characteristics, with the Ultic soil being moderately well drained and a low vulnerability of waterlogging, whereas the Gley soil is poorly drained and high vulnerability of waterlogging[13]. When reviewing the overall drainage for this wider area (Figure 16), the majority (70%) of the rural zoned land is a mix of imperfectly drained, moderately well drained and well drained, with approximately 30% being poorly and very poorly drained soils. Depending on other characteristics, such as slope, these soils with better drainage have a high productive potential compared to very poorly and poorly drained soils.

The NZLRI indicates that the LUC 4e soils, which make up a large proportion of the wider area, have a slope class of C+D, being rolling to strongly rolling. When reviewing the Manaaki Whenua Landcare Research OurEnvironment slope map, the majority of this area is defined as being flat to gently undulating, with the only steeper areas surrounding the waterways (Figure 17).

Based on the information available, the soils in this vicinity have better drainage characteristics, and the majority of the areas have a similar flat contour, while being in a similar to higher land use (all dairy farms) compared to those within the PPC Site (mix of dairy, arable and drystock). Therefore, an expansion of this area would likely impact and cause fragmentation of land with a higher productive capacity. AgFirst considers that the PPC Site would meet the subclause 3.6(2)(c), whereby the PPC Site has a relatively lower productive capacity.

[13] Maps | S-Map Online | Manaaki Whenua - Landcare Research

| | |
|---|---|
| Expansion opportunity | Unlimited |
| Constraints | None |
| Current land use | General Industrial Zone |
| Surrounding land use | Rural Zone – Dairy farming, rural lifestyle. |
| NZLRI LUC classification | LUC 2, LUC 3 and LUC 4 |
| Soil characteristics | Majority of surrounding area has a drainage class of imperfectly drained, moderately well drained and well drained. |
| Environmental constraints | Waterways |
| Economic limitations | None |
| Land use potential | Potential for dairy, pastural grazing and arable |
| Comparison to PPC Site | The soils and land in this area are overall of a higher quality with larger commercial farming systems in operation. The farms are not constrained by regulations, with the ability for them to continue as economic dairy farms. Therefore, AgFirst considers this area has a higher productive capacity when compared to the PPC Site, which is dominated by very poorly drained soils and a drystock business that is constrained by size and regulations. Expansion into this area would have a greater impact on fragmentation of large geographically cohesive areas. |

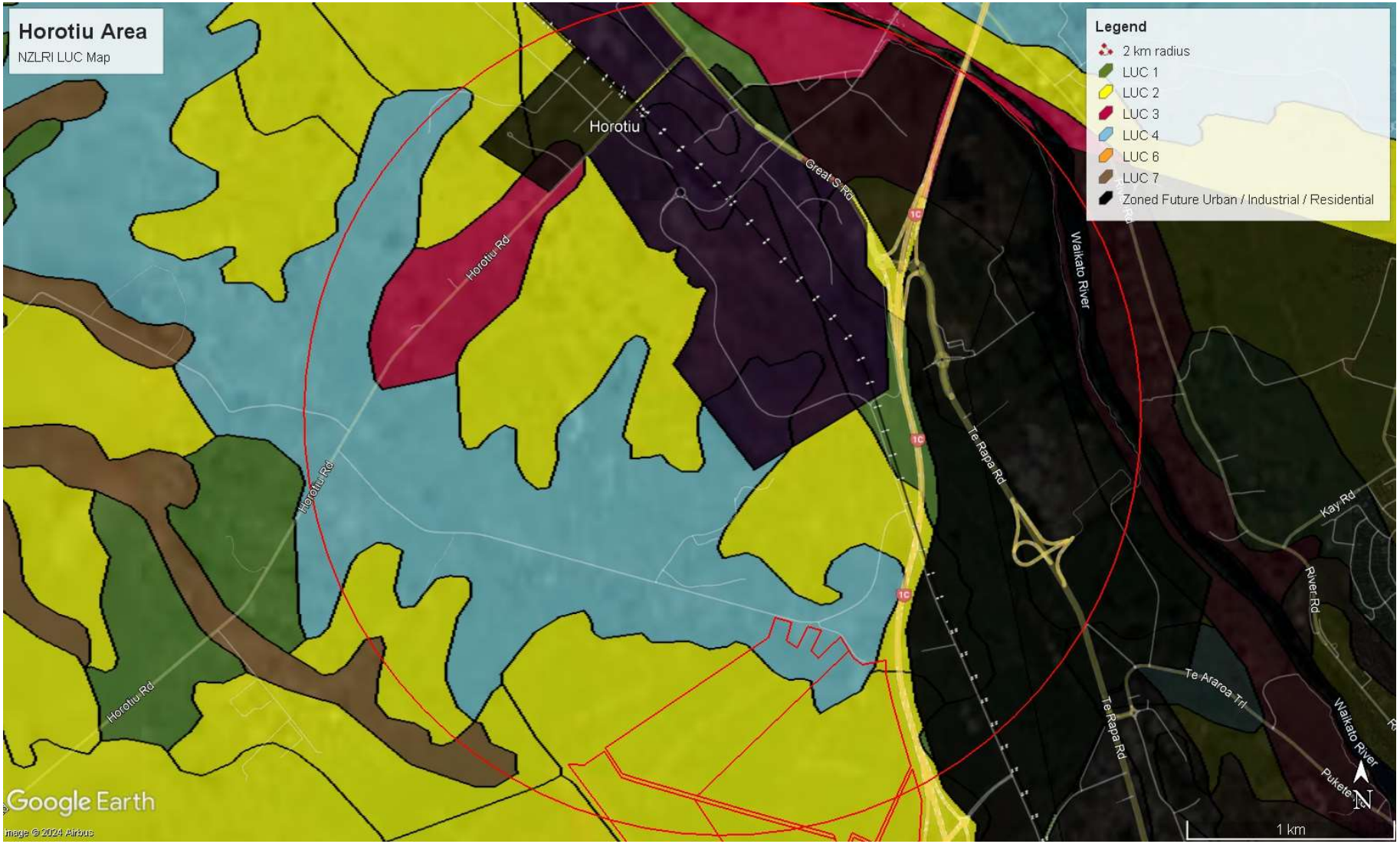

Figure 14: NZLRI LUC classification of land surrounding the Horotiu industrial zone

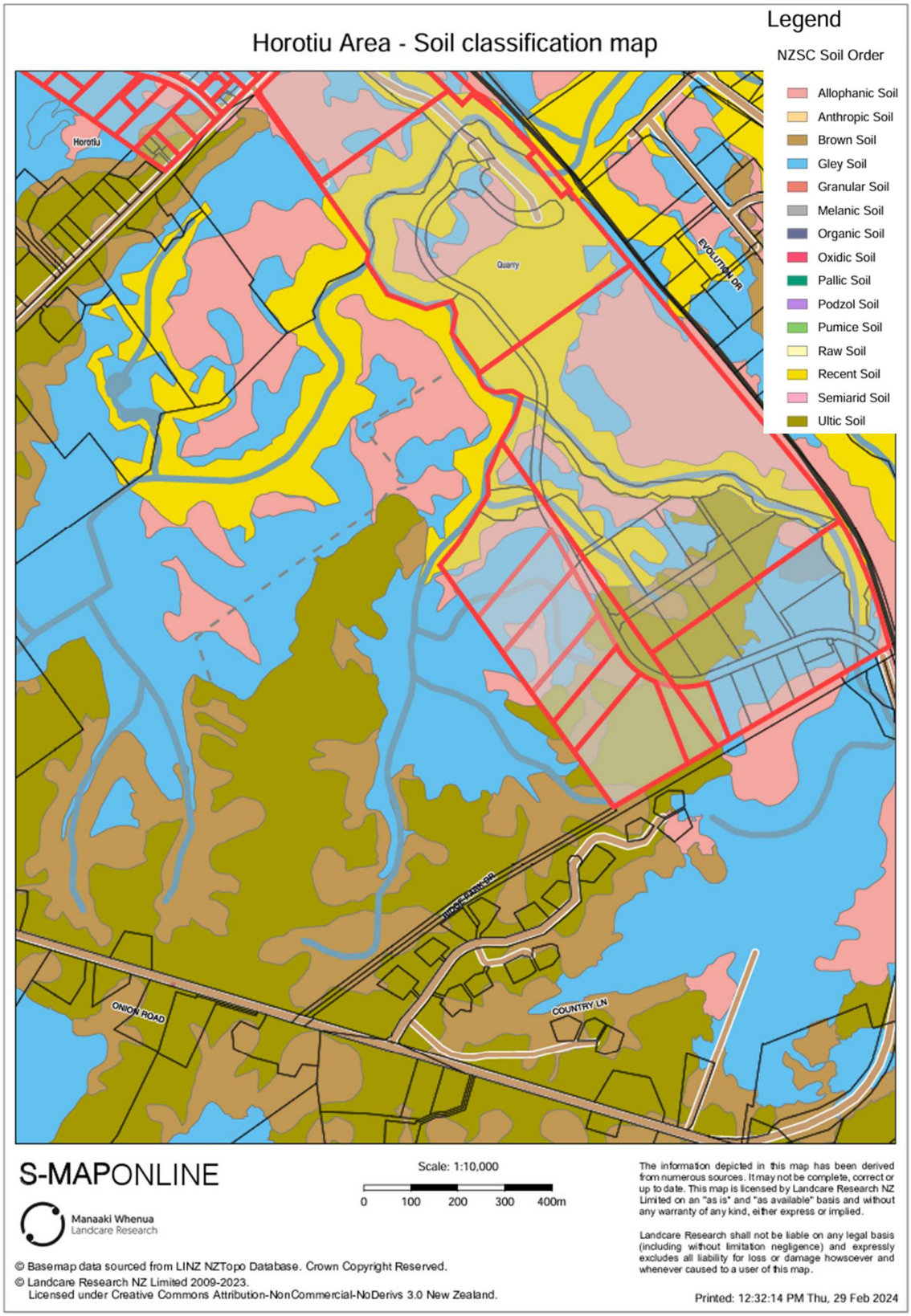


Figure 15: S-Map soil classification of land surrounding the Horotiu industrial zone

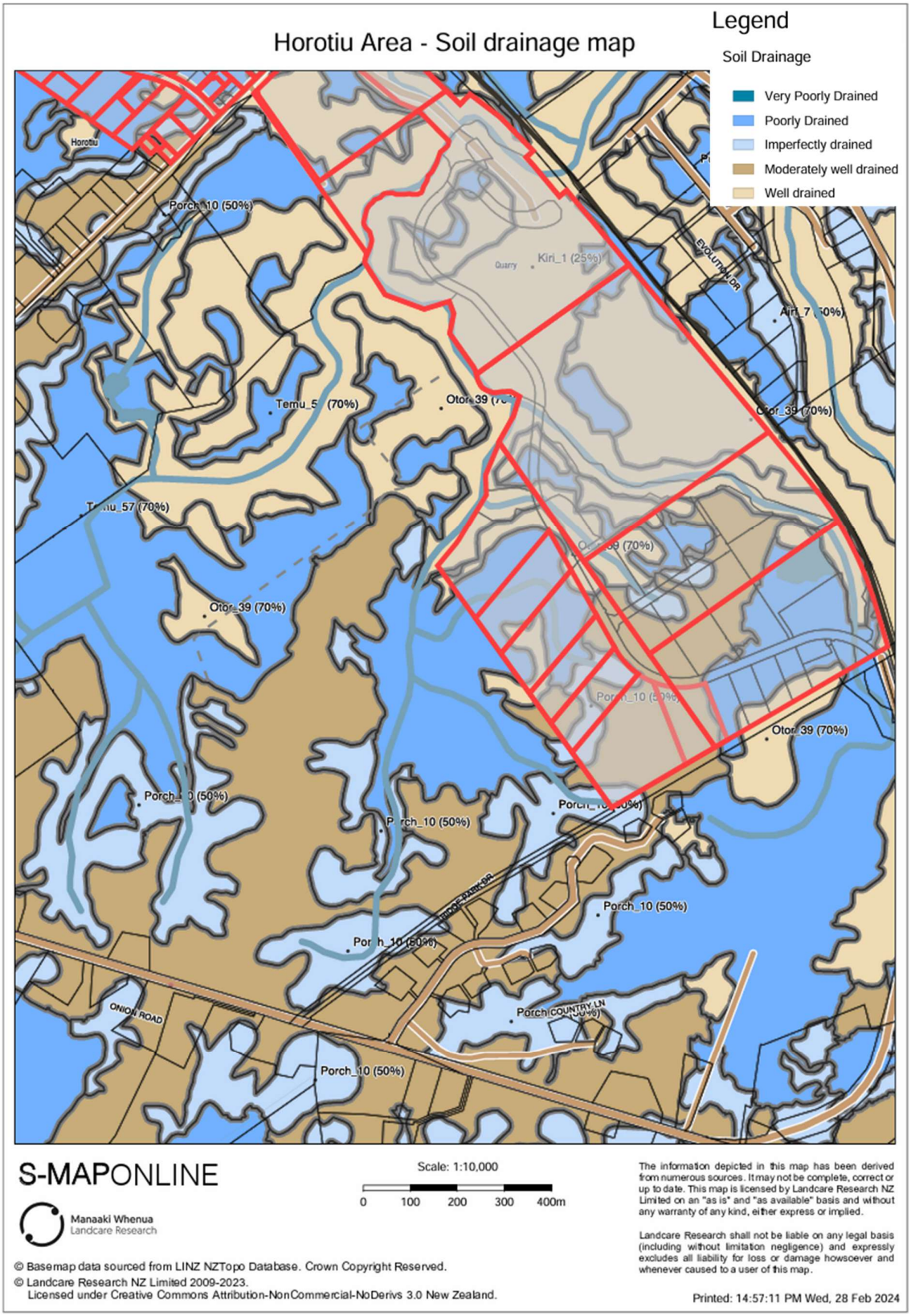

Figure 16: S-Map drainage representation of land surrounding the Horotiu industrial zone

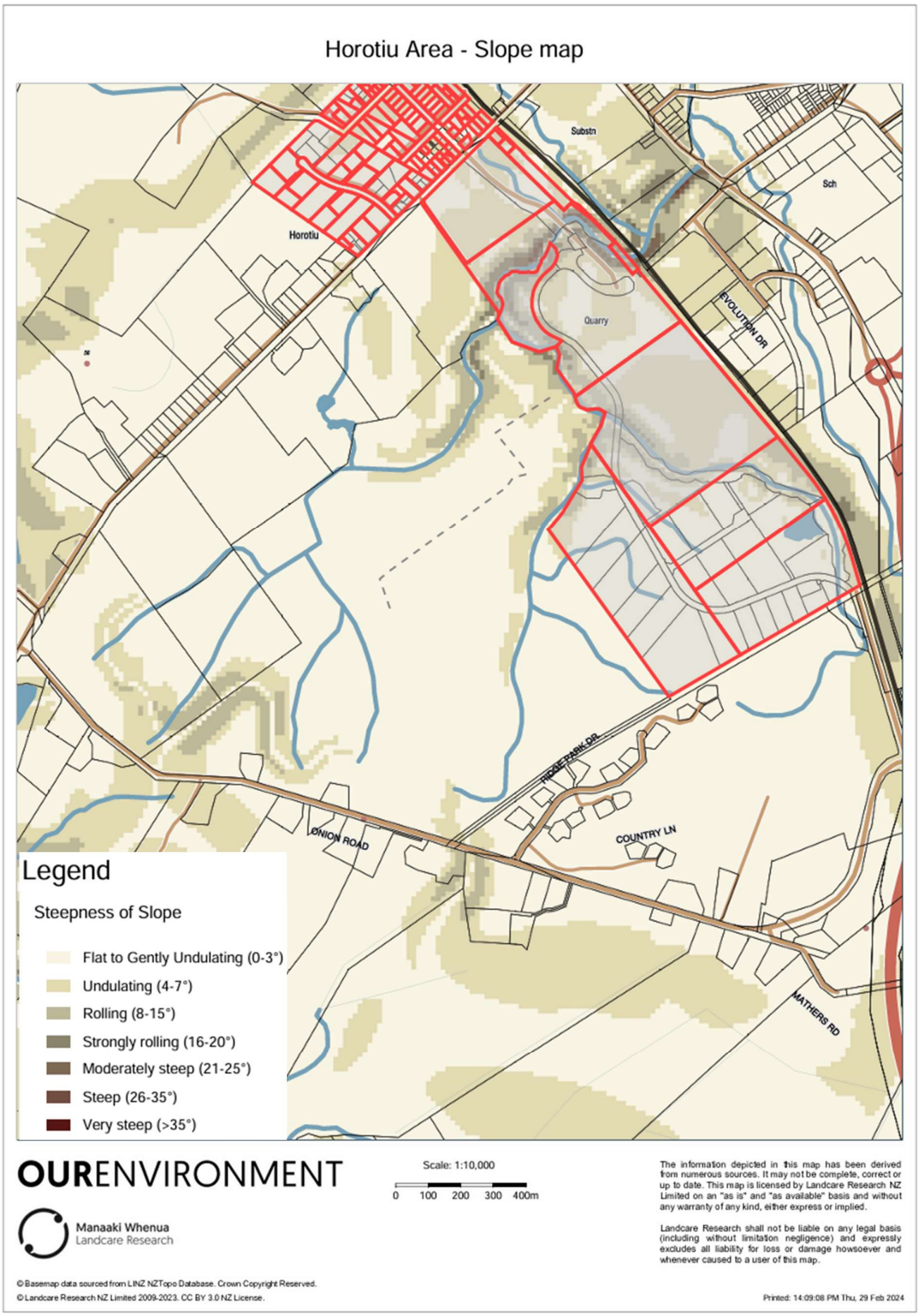


Figure 17: Slope map of land surrounding the Horotiu industrial zone

## 8.0 SUMMARY

Overall, while the PPC Site contains approximately 179.8 ha that is identified as HPL under the NPS-HPL (mostly LUC 2), intensive agricultural operations are restricted or constrained due to:

- Surrounding land uses to the north, south and east is zoned residential and industrial zone.
- Soil conditions
    - Very poorly drained, causing reduced yields and carrying capacity
    - Land unsuitable for alternative higher value land-based primary production
- Limited expansion or improvement options
    - Due to regulations restricting intensification into various land uses
    - Due to physical boundaries and amalgamation opportunities

With rapidly rising input costs, the returns for marginal production and yields will be reduced, and consideration will need to be given regarding the optimum land use for the Site. When discussing the long-term productivity of the site, the current system may not be economically viable beyond 30 years. This is evidenced by the PPC Site economic analysis and viability, with only the dairy farming business being profitable.

Under the Waikato District Plan and Regional Policy Statement, the majority of the soils (peat soils) across the Site are not considered of high-class and are exempt from assessment for sub-division or developments.

AgFirst has undertaken a comparative agricultural productive assessment against alternative rural options in the locality. Alternative areas identified are the rural zoned land to the west of the Burbush future urban area and the land to the southwest of the Horotiu general industrial zone. While there is no argument that the land within the PPC Site is HPL, given the constraints identified above, AgFirst is of the opinion that the expansion of this area will have a lessor impact on the district with regards to having a lower productive capacity. Furthermore, conversion of the PPC Site into industrial zone would not cause any fragmentation or further disruption of additional highly productive land.

Therefore, AgFirst considers that the re-zoning of the PPC Site meets the requirements of Clause 3.6(1)(b) and 3.6(2)(c) of the NPS-HPL insofar as there are no other reasonably practicable and feasible options which are better suited in terms of impacts on productive land for providing additional industrial development capacity for Hamilton north.

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